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January 28, 2008

By ECF

Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York New York 10007

RE: *Kleine v. City of New York et al*
07 Civ. 5887 (PKC)(GWG)

Dear Judge Castel:

As per the Court's directive, on January 10, 2008, counsel met and conferred. The following issues have not been resolved and require Court intervention:

PLAINTIFF'S CONTENTIONS

This excessive force case arises from plaintiff's May 4, 2007 arrest by defendant P.O. Moscoso, an employee of the NYPD Transit District 2. During the course of plaintiff's arrest, defendant Moscoso struck the plaintiff resulting in two fractures which shall require multiple surgical procedures. At some point after the arrest, Moscoso's partner, P.O. Michael Rhome, took plaintiff to St. Vincent's Hospital, at which time the fractures were diagnosed. At some point after plaintiff's arrest, Moscoso and Rhome's supervisor, Sgt. Nunziato, who had received divergent and inconsistent account of the incident, notified Transit Duty Captain Marino and Inspector McAllister, both of whom directed that the officer's be reported to the Internal Affairs Bureau (IAB). IAB investigators were dispatched to St. Vincent's Hospital where plaintiff was interviewed. After plaintiff's release from St. Vincent's, he was taken back to the District 2 Command and interviewed a second time by IAB. During that interview, plaintiff identified P.O. Moscoso and P.O. Rhome from a photo array.

On November 20, 2007, plaintiff served his First Demand for Documents, and on January 8, 2008, the City provided its "Responses and Objections," a copy of which is annexed hereto. Additionally attached hereto is the City's document production. After the Court so-ordered a subpoena for the prosecutor's file, we received a letter dated January 11, 2008 setting forth the District Attorney's objections. We attach a copy of that letter for the Court's review. Finally, on January 25, 2008, the City produced certain IAB records. Based upon the documents demanded and produced, and the District Attorney's correspondence, the following documents are

outstanding:

DEFENDANTS' CONTENTIONS

Defendants City of New York and Leonardo Moscoso assert that on May 4, 2007, plaintiff sustained injuries but dispute the underlying facts leading to plaintiff's injuries. Defendant Moscoso denies that any excessive force was used during the course of plaintiff's arrest. Instead, it appears that plaintiff injured himself. However, relevant to the instant discovery dispute is that after the incident, plaintiff was transported directly to St. Vincent's Hospital via ambulance. NYPD Internal Affairs Bureau ("IAB") Officers interviewed plaintiff at St. Vincent's Hospital. After, plaintiff's release from St. Vincent's, he was escorted to Transit District 2 police precinct, where he was held a short period of time before being released with a Desk Appearance Ticket. Plaintiff was charged with Disorderly Conduct and Resisting Arrest and on October 15, 2007, he accepted a plea of Adjournment in Contemplation of Dismissal.

Defendants maintain their objections asserted in their responses to plaintiff's written discovery requests dated January 8, 2008, however, as necessary defendants supplement and explain their responses and objections as outlined below.¹ Notably, plaintiff did not confer with defendants' prior to seeking the Court's intervention by his letter application dated January 9, 2008.² Moreover, it appears that plaintiff has added additional requests for documents based upon a purported letter, which he received from the New York County District Attorney's ("DA") Office dated January 11, 2008.³

Finally, on January 25, 2008, defendants produced their supplemental disclosure of documents to plaintiff bearing Bates Nos. 24-187 by hand delivery. The documents bearing Bates Nos. 29-178 constitute the Internal Affairs Bureau ("IAB") Investigation File for Case No. 07-16913 and was produced pursuant to the Stipulation and Protective Order between the parties in this case, which was endorsed by the Court on January 23, 2004.

1. **District Attorney's File:** Defendants object to plaintiff's request for the district attorney's file on the grounds that the file is not in defendants' possession, custody or control and the request seeks documents from an entity that is not represented by the Office of Corporation Counsel. Moreover, to the extent that plaintiff requests from defendants the list of documents described by the DA in its January 11, 2008 letter as currently being in its file, defendants further object on the grounds that the request is vague, ambiguous, overbroad, duplicative and seeks documents that may be protected by the work product privilege.

In its January 11, 2008 letter, the DA described approximately 54 categories of documents

¹ A copy of Defendants' Responses and Objections to Plaintiff's First Request for Documents is annexed hereto for the Court's convenience.

² A copy of plaintiff's January 9, 2008 application is annexed hereto for the Court's convenience.

³ A copy of the DA's letter dated January 11, 2008 is annexed hereto for the Court's convenience.

in its file and asserted that those documents will not be made available to the parties until the DA deems plaintiff's criminal prosecution closed on April 25, 2008. Defendants do not have access to the DA's file and accordingly, cannot discern with certainty all of the documents described in the DA's January 11, 2008 letter. However, judging from the descriptions, upon information and belief, to date, defendants have produced to plaintiff the majority of the documents listed by the DA. As will be discussed more fully below, defendants cannot locate a copy of the Complaint Report (typed) as described at Nos. 1 and 7 on the DA's list. Defendants have produced at Bates Nos. 174-178, five (5) color photographs of plaintiff's injuries immediately after the incident and assert that any other photographs may have been produced to the DA by plaintiff during the course of his criminal prosecution.

2. **Arrest Reports and Photographs-** The City has produced a computer-generated "Arrest Report." At the top of the document, it states "THIS IS AN UPDATED ARREST." The report was generated on July 30, 2007, more than two months after my client's arrest. The City, however, has failed to produce the Arrest Report which was generated at the Command on the day of the arrest, or immediately thereafter, when the Precinct PAA entered into the computer the information taken from Officer Moscoso's Arrest Worksheet, which was produced. To the extent the City labels its own report as "UPDATED," the City is required to produce documents relating to and witnesses with knowledge of the "UPDATE". Next, the City claims it cannot locate the arrest photograph taken of my client on May 4, 2007. Where, as here, the injuries were sustained during his arrest, my client is entitled to see the arrest photograph and the City cannot claim, eight months after the fact, they are still looking for it. We request the Court Order it produced within a time certain and, if it cannot be located, an affidavit produced addressing all efforts made to locate it. The defendants previously produced these items to the District Attorney and have offered us no explanation for their non-production other than defense counsel's claim that she is still investigating the matter.

Defendants' Response: Defendants object to plaintiff's request for both an explanation of the arrest report produced at Bates No. 15 and the production of plaintiff's arrest photograph on the grounds that plaintiff assumes facts not established, there is a more practical method of obtaining the information sought and the information sought is duplicative and not relevant or reasonably calculated to lead to admissible information.

This Office produced a certified copy of plaintiff's arrest report, which was dated and certified on July 30, 2007.⁴ The arrest report is a computer generated document and the reason it reflects July 30, 2007 was because this Office did not request it until after we received notice that plaintiff had filed his complaint on June 21, 2007. The language that plaintiff references is also included in the area identifying the arrest report's generation date. In sum, defendants are not in possession of any other copy of the arrest report. To the extent that plaintiff asserts that the DA's Office is in possession of an earlier generated copy of the arrest report, that document will be available on April 25, 2008, when the DA releases its file.

⁴ A copy of the Certified Arrest Report generated on July 30, 2007 is annexed hereto for the Court's convenience.

To the extent that plaintiff eludes that there is a substantive difference between the arrest report, which was produced and an assumed prior arrest report, defendants submit that plaintiff should question the officers at deposition as to their involvement in generating and/or altering documents in this case. In addition to providing plaintiff with the arrest report at issue, defendants also produced to plaintiff: (1) an Online Arrest Report at Bates Nos. 8-10, and; (2) an Online Booking System Arrest Worksheet at Bates Nos. 16-17.⁵ The Online Booking System Worksheet was handwritten and endorsed by defendant Moscoso. These documents are all NYPD business records, which are commonly used by police officers. Moreover, they reflect the same or similar information contained in the computer generated arrest report at issue. Plaintiff does not dispute that they were created immediately following the incident. Therefore, plaintiff can compare the documents and to the extent there are any substantive questions regarding their completion, such questions are more appropriately posed during the officers' sworn depositions.

With respect to plaintiff's arrest photograph, I am informed by the NYPD that pursuant to N.Y.C.P.L. § 160.50 (1)(a), plaintiff's arrest photograph was destroyed.⁶ Notably, as discussed supra, defendants have produced five (5) photographs of plaintiff that were taken at St. Vincent's Hospital prior to him being transported to the precinct for arrest processing, at which time his arrest photograph was taken. Moreover, the DA indicates that its file contains eighteen (18) color photographs of plaintiff. Today, I was informed by Officer Moscoso that he located a black and white photocopy of plaintiff's arrest photograph and I will forward it to plaintiff by facsimile today.

3. **Memo Book Entries-** The City has produced a heavily redacted memo book entry for defendant Moscoso and his partner Rhome, yet the City neither made a timely objection to our memo book demand nor set forth the unredacted documents on a privilege log. Moreover, we are entitled to see the entirety of the memo book entries for the date of the arrest because they will set forth the defendant officer's assignment, and with that information we can identify the other officers who were present in the Command, as well as, the subway station. The defendants previously produced these items (unredacted) to the District Attorney and have offered us no explanation for their non-production other than defense counsel's claim that she is still investigating the matter.

Defendants' Response: Defendants have produced Michael Rhome's memo book entries for May 4, 2007 at Bates Nos. 179-181 and defendant Moscoso's memo book entries for May 4, 2007 at Bates Nos. 182-185. To the extent that the memo books reflect the arrests of non-parties, they have been redacted on the grounds that the production of such information would violate the sealing provisions of N.Y.C.P.L. § 160.50 and/or implicate the privacy interests of non-parties and such information is not relevant or reasonably calculated to lead to the discovery of

⁵ A copy of the Online Arrest Report bearing Bates Nos. 8-10 and the Online Booking Arrest Worksheet bearing Bates Nos. 16-17 is annexed hereto for the Court's convenience.

⁶ In relevant part N.Y.C.P.L. § 160.50(1)(a) provides that "[u]pon termination of a criminal action or proceeding against a person in favor of such person, every photograph of such person ... shall forthwith be, .. either destroyed or returned to such person...".

admissible evidence.

4. **UF-61 Complaint Report-** Although no person may be arrested without the preparation of a complaint report bearing a complaint number, the City claims it cannot locate the handwritten complaint report, even though the complaint number is referenced in the produced arrest report. We request the City be given the same directive for this document and set forth in ¶1, *supra*. The defendants previously produced these items to the District Attorney and have offered us no explanation for their non-production other than defense counsel's claim that she is still investigating the matter.

Defendants' Response: Defendants object to plaintiff's request for a UF-61 Complaint Report on the grounds that it assumes facts not established. Moreover, this document may be contained in the DA's file as it appears that a document described as a Complaint Report (typed) is listed as document 37 in the DA's January 11, 2008 letter. Therefore, defendants submit that this document will be available when the DA releases its file on April 25, 2008.

Notwithstanding, their objections, defendants have searched their records and cannot locate a UF-61 Complaint Report. Defendants continue to search for that document and will produce it if it is located.

5. **Medical Treatment of Prisoner Form-** When I asked the assigned ACC why she had not produced this pivotal document, she stated that "sometimes if the prisoner is taken directly to the hospital, there is no such form created" and the medical records would "take the place" of the form. There is no such policy or procedure in place at the NYPD and the Patrol Guide mandates that such a form be authored when an alleged perpetrator is injured during an arrest. We request the City be given the same directive for this document and set forth in ¶1, *supra*. The defendants previously produced these items to the District Attorney and have offered us no explanation for their non-production other than defense counsel's claim that she is still investigating the matter.

Defendants' Response: Today, defendant Moscoso informed me that he located a copy of plaintiff's medical treatment of prisoner form and I will forward it to plaintiff by facsimile today.

6. **Internal Affairs File Including Written and Taped Interviews** –The City has now produced certain IAB records but has not produced statements from any of the Police Officers involved. The City has also failed to produced tapes of the interviews of plaintiff, and the recording of the initial call to IAB.

Defendants' Response: Defendants object to plaintiff's request on the grounds that it assumes facts not established. Defendants produced the IAB investigation file for the incident in its entirety at Bates Nos. 29-178 pursuant to a Stipulation and Order of Protection, which was endorsed by the Court on January 23, 2008. Furthermore, by letter dated January 25, 2008, defendants' informed plaintiff that one (1) audiotape was generated by IAB as part of its investigation and it is currently being duplicated and will be produced to plaintiff as soon as the

duplicate is received by this Office.

To the extent that plaintiff seeks purported additional officer statements, defendants state, upon information and belief, that there are no documents responsive to that request.

7. **Command Log for Transit District 02-** Here, again, the City produced a redacted log, copy annexed, without lodging timely or appropriate objections. As for the City's claim that we have already identified the officers we wish to sue, that has nothing to do with our right to discover who was assigned to the Command that evening, where they were patrolling, and the relevant timing of the arrival and departure of plaintiff, other District 2 officers and the IAB investigators. Plaintiff is entitled to present the jury with a timeline of the events, and the unredacted command log forms the factual backbone of that timeline. The defendants previously produced these items to the District Attorney and have offered us no explanation for their non-production other than defense counsel's claim that she is still investigating the matter.

Defendants' Response: Defendants object to plaintiff's request for the unredacted Command Log for May 4, 2007 on the grounds that it vague, ambiguous, overbroad, assumes facts not established and to the extent that it seeks information that the disclosure of which would violate the sealing provisions of N.Y.C.P.L. § 160.50 and/or implicate the privacy interests of non-parties, is protected by law enforcement privilege and is not relevant or reasonably calculated to lead to admissible evidence. Defendants have produced all Command Log Entries reflecting activities concerning plaintiff.⁷ Moreover, to date, defendants have produced the Roll Call for May 4, 2007 at Transit District 2 at Bates Nos. 147-152, which identifies all of the officers on duty and their specific assignments. Finally, defendants have provided plaintiff with a copy of the IAB investigation file, which details all of the IAB officers involved in the investigation and the specific actions, which they took in furtherance of the investigation. The Command Log does not reflect the presence of IAB officers at the precinct. Accordingly, defendants submit that all of the relevant information sought by plaintiff in this regard has been disclosed.

8. **Additional Materials Produced to the District Attorney Yet Withheld From Plaintiff-**Beyond the above materials, it is now apparent, based upon the correspondence from the District Attorney, that defendants have additionally withheld the following documents, all without explanation and/or assertion of privilege, and after producing such documents to the prosecutor in the weeks and months after plaintiff's arrest:

- a. Prisoner movement slip
- b. three additional pages of Moscoso's memo book
- c. P.O Rhome's memo book
- d. 18 Color photographs of plaintiff
- e. a typed online booking sheet
- f. typed complaint report (two-month post incident computer printout provided)

⁷ A copy of the Command Log Entries bearing Bates Nos. 186-187 is annexed hereto for the Court's convenience.

- g. Desk Appearance Ticket Investigation
- h. DAT report
- i. Additional IAB Records
- j. Photo array
- k. OLBS
- l. Prisoner Pedigree Card
- m. Roll Call Adjustment (which was necessary to have an officer guard plaintiff at hospital)
- n. Roll Call
- o. BADS printout
- p. Request for 911 Sprint Records
- q. Request for Command Center Disc
- s. Injured Prisoner in Command Confines report
- t. transmittal OG case
- u. E-Justice background check on plaintiff
- v. Request for canvass.

Defendants' Response: Please see defendants' response to 1. District Attorney's File supra. Additionally, defendants' object to the extent that plaintiff's list does not accurately reflect the descriptions set forth in the DA's January 11, 2008 letter.

Notwithstanding defendants' objections, defendants have produced the following documents requested by plaintiff:

Moscoso's memo book: **Moscoso's Memo Book was produced as described supra at Point 3. Memo Book Entries at Bates Nos. 182-185**

P.O Rhome's memo book: **Rhome's Memo Book was produced as described supra at Point 3. Memo Book Entries at Bates Nos. 179-181**

18 Color photographs of plaintiff: **5 photographs were produced as described supra at Point 2. Arrest Report and Arrest Photographs at Bates Nos. 174-178**

Additional IAB Records: **The entire IAB file was produced at 29-178 as discussed supra at Internal Affairs File 6., accordingly, there are no documents responsive to this request**

Photo array: **Produced at Bates Nos. 164-167**

Prisoner Pedigree Card: **Produced at Bates No. 156**

Roll Call Adjustment (which was necessary to have an officer guard plaintiff at hospital): **Produced at Bates No. 152**

Roll Call: **Produced at Bates Nos. 147-152**

BADS printout: **Produced at Bates Nos. 106-108**

Request for 911 Sprint Records: **Produced at Bates No. 104-105**

Request for Command Center Disc: **Produced at Bates Nos. 102-103**

Injured Prisoner in Command Confines report: **Produced at Bates Nos. 60-61**

transmittal OG case: **Produced at Bates No. Bates 169**

E-Justice background check on plaintiff: **Produced at Bates No. 36**

Request for canvass: **Produced at Bates Nos. 170 and 173**

Further, without reviewing the DA's file defendants cannot determine based upon the description whether or not they have produced the following documents:

a typed online booking sheet (handwritten provided) : **A handwritten Online Booking Arrest Sheet was provided at Bates Nos. 16-17.**

typed complaint report (two-month post incident computer printout provided): **An Online Complaint Report was produced at Bates Nos. 6-7**

Desk Appearance Ticket Investigation: **Desk Appearance Ticket was produced at Bates No. 12**

DAT report – **Desk Appearance Ticket was produced at Bates No. 12**

OLBS: **Defendants are unable to identify the document based upon the description**

Prisoner movement slip: **Defendants are unable to identify the document based upon the description**

Respectfully submitted.,

~~ROBINSON & YABLON, P.C.~~



Andrew M. Laskin (AL9379)
Attorney for Plaintiffs

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Attorney for Defendants City of New York and
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By:



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**ROBINSON & YABLON, P.C.
ATTORNEYS AT LAW**

FACSIMILE TRANSMITTAL SHEET

<p>TO:</p> <p>Honorable P. Kevin Castel ACC Subarea Tann, Esq.</p> <p>COMPANY:</p> <p>Southern District of New York NYC Law Department</p> <p>FAX NUMBER:</p> <p>(212) 805-7949 (212) 788-9776</p> <p>PHONE NUMBER:</p> <p>(212) 805-0762 (212) 442-8600</p> <p>RE:</p> <p>Gregory Kline v. City of NY & PO Moskova</p>	<p>FROM:</p> <p>Andrew Iarkin, Esq.</p> <p>DATE:</p> <p>January 28, 2008</p> <p>TOTAL NO. OF PAGES INCLUDING COVER:</p> <p>10</p> <p>SENDER'S REFERENCE NUMBER:</p> <p>YOUR REFERENCE NUMBER:</p>
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URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

Attached is the joint letter regarding outstanding discovery. Exhibits shall be scanned into ECF tomorrow morning.

232 MADISON AVENUE, SUITE 1200
NEW YORK, NEW YORK 10007
212-725-8566
212-725-8567 (FAX)

**** Transmit Conf. Report ****

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ROBINSON & YABLON, P.C.
ATTORNEYS AT LAW

FACSIMILE TRANSMITTAL SHEET

TO: Honorable P. Kevin Castel ACC Sabrina Tann, Esq. COMPANY: Southern District of New York NYC Law Department FAX NUMBER: (212) 805-7949 (212) 788-9776 PHONE NUMBER: (212) 805-0262 (212) 442-8600 RE: Gregory Kleinc v. City of NY & PO Misc.60	FROM: Andrew Lashin, Esq. DATE: January 28, 2008 TOTAL NO. OF PAGES INCLUDING COVER: 10 SHIPPER'S REFERENCE NUMBER: YOUR REFERENCE NUMBER:
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 212-725-8566
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ROBINSON & YABLON, P.C.
ATTORNEYS AT LAW

FACSIMILE TRANSMITTAL SHEET

TO:

Honorable P. Kevin Castel
ACC Sabrina Tann, Esq.

FROM:

Andrew Laskin, Esq.

COMPANY:

Southern District of New York
NYC Law Department

DATE:

January 28, 2008

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RE:

Gregory Kleine v. City of NY & PO
Moscoso

YOUR REFERENCE NUMBER:

URGENT

FOR REVIEW

PLEASE COMMENT

PLEASE REPLY

PLEASE RECYCLE

Attached is the joint letter regarding outstanding discovery. Exhibits shall be scanned into ECF tomorrow morning.

232 MADISON AVENUE, SUITE 1200
NEW YORK, NEW YORK 10007
212-725-8566
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PLAINTIFF'S
EXHIBITS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Docket #: 07 Civ. 5887(PKC)

-----X
GREGORY KLEINE,

**PLAINTIFFS FIRST
DEMAND FOR
DOCUMENTS**

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER
LEONARDO MOSCOSO, TR#937146, and JOHN DOES 1-6
Representing Several Unidentified Police Officers Assigned
To Transit Division District 02, In their Individual and
Official Capacities,

Defendants
-----X

Pursuant to Rules 26, 33 and 34 of the Federal Rules of Civil Procedure and the Local Rules please take notice that the undersigned on behalf of the Plaintiff, hereby serves the following First Set of Document Demands upon Defendants, reserving the right to supplement or amend these demands as additional information becomes available. Defendants' responses are returnable at the offices of **ROBINSON & YABLON, P.C.**, 232 Madison Avenue, New York, New York, 10016 on or before December 20, 2007 at 10:00 a.m.

Plaintiff Demands Defendants Produce the following documents which relate to the incident forming the basis of plaintiff's Complaint:

1. **NYPD ARREST REPORT ID #: M07639919, INCLUDING ONLINE BOOKING ARREST WORKSHEET AND ARREST PHOTOGRAPHS**
2. **MEMO BOOK ENTRIES FOR 5/3/07-5/4/07 OF DEFENDANT MOSCOSO AND FELLOW OFFICERS.**
3. **UF 61 COMPLAINT REPORT**

4. MEDICAL TREATMENT OF PRISONER FORM
5. COMPLETE INTERNAL AFFAIRS FILE FOR LOG # 07-16913
CALLOUT #: 07-1145 AND AUDIO TAPE (GO 15) OF CALL OUT WITH
LAB LOG FOR SUBJECT CALL PHOTO ARRAYS #13220 AND 13219
PHOTOGRAPHS OF COMPLAINANT
PG 206-13 INTERROGATION (AUDIO TAPE AND TRANSCRIPTS) OF
P.O.MOSCOSO AND ANY/ALL OTHER OFFICERS
6. COMMAND LOG, TRANSIT DISTRICT 02, 5/3/07-5/4/07
7. ROLL CALL FOR TRANSIT DIST 02, 5/3/07-5/4/07
8. SPRINT REPORT, 911 CALL, RADIO TRAFFIC WITH RESPECT TO
INCIDENT AND PLAINTIFF'S ARREST AND DETENTION
9. PERSONNEL FILE/DISCIPLINARY HISTORY OF P.O. MOSCOSO
10. FILE OF THE DISTRICT ATTORNEY, NEW YORK COUNTY
11. CCRB FILE WITH RESPECT TO PLAINTIFF'S COMPLAINT AGAINST
THE DEFENDANTS
12. COPIES OF ANY/ALL RECORDS OBTAINED BY DEFENSE COUNSEL
PURSUANT TO SUBPOENA AND/OR THROUGH SUBMISSION OF
AUTHORIZATIONS FURNISHED BY PLAINTIFF HEREIN.

Dated: New York, New York
November 20, 2007

Yours, etc.,

Andrew M. Laskin (AL9379)
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NEW YORK CITY LAW DEPARTMENT
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DISTRICT ATTORNEY

OF THE

COUNTY OF NEW YORK

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ROBERT M. MORGENTHAU
DISTRICT ATTORNEY

Email: edelmank@dany.nyc.gov

January 11, 2008

Andrew M. Laskin
232 Madison Avenue, Suite 1200
New York, NY 10016

Re: Gregory Kleine v. The City of New York, et al.
Case Number: 06 CV 1089 (PKC)

Dear Mr. Hoffner:

I represent the New York County District Attorney's Office ("DANY"), a non-party, in connection with the above matter. On December 20, 2007, DANY received your subpoena dated December 13, 2006 in the above matter. I am writing to object to compliance with this subpoena because it is defective, it requests materials which are privileged, and it requests material which are the subject of an on-going criminal case which has not yet concluded.

Your subpoena seeks a "complete...copy of the District Attorney's file." The subpoena goes on to further specify the documents you seek. But, in essence, the subpoena seeks unrestricted access to the contents of DANY's criminal file.

FRCivP 45(b)(1) provides in substance that a subpoena must be accompanied by the simultaneous tendering of one day's attendance and mileage fees of \$40 as set forth in U.S.C. § 1821(2)(b). See, e.g., CF & I Steel Corp. v. Mitsui & Co. (USA), Inc., 713 F.2d 494, 496 (9th Cir. 1983); see also Gonzalez v. Fenner, 128 F.R.D. 606, 607-608 (S.D.N.Y. 1989) (Sprizzo, J.) (same where non-party subpoenaed to appear at pretrial deposition). Your subpoena fails to comply with that provision.

FRCivP 45(a)(1)(D) provides in substance that a subpoena must set forth the text of subdivisions (c) and (d) of Rule 45. Your subpoena fails to comply with that provision.

The Subpoena requests material relating to an ongoing prosecution. On October 25, 2007 the defendant consented to having this case Adjourned in Contemplation of Dismissal until April 25, 2008. Should the defendant not re-offend prior to April 25, 2008, the criminal case will be dismissed. Until then, it is considered an open matter currently being prosecuted by our office. DANY respectfully asks that you withdraw this Subpoena until the case is completed.

Should you choose to continue in your endeavor to receive the above-noted items, DANY will be forced to seek leave to have the court intervene on its behalf and consider staying the civil proceeding and/or postpone civil discovery. See Fed. R. Civ. P. 24(b)(2); United States v. Kordel, 397 U.S. 1, 12 n. 27 (1970); Rosenthal v. Giuliani, 2001 U.S. dist. LEXIS 1207 (S.D.N.Y. Feb. 2, 2002)(Peck, M.J.).

Were this case not pending, your Subpoena requests many documents which were generated or obtained by the New York City Police Department (NYPD). DANY objects to the disclosure of these documents. You have not alleged that you have made any attempts to obtain these documents from NYPD and have failed to obtain them. You should attempt to do so prior to subpoenaing such documents from non-party DANY's files. NYPD is in the best position to assert any relevant privileges or other legal restrictions to the disclosure of its records. See Thomas v. City of Mount Vernon, 1990 U.S. Dist. LEXIS 3036 (S.D.N.Y. 1990) (motion to compel non-party District Attorney's Office to comply with subpoena requesting police documents denied where Plaintiff did not explain why information sought could not be obtained directly from police department); see also Cruz v. Kennedy, 1998 U.S. Dist. LEXIS 15599 (S.D.N.Y. 1998).

The file contains copies of the following documents created by or obtained from NYPD:

1. Medical Treatment of Prisoner Form
2. Prisoner Movement Slip
3. Memobook, P.O. Moscoso, 4 pages
4. Memobook, P.O. Rhone, 2 pages
5. Color copies of photos of defendant printed on 8 ½ x 11 paper, 18 pages
6. On-line Booking Sheet (typed), 2 pages
7. Complaint Report (typed), 2 pages
8. Desk Appearance Ticket
9. Desk Appearance Ticket Investigation, 2 pages
10. DAT Report, 8 pages
11. Arrest Report
12. IAB Callout Report, 2 pages
13. IAB Investigating Officer's Report (IAB IOR), Response to St. Vincent's Hospital 5/4/2007, 2 pages
14. IAB IOR, Interview of Gregory Kleine, 5/4/2007, 2 pages
15. IAB IOR, 5/15/2007, Metro card History Check
16. IAB IOR, 5/4/2007, Photo Array, 2 pages
17. IAB IOR, 5/4/2007, Arrest Documents
18. IAB IOR, 5/4/2007, Medical Records Request Form
19. IAB IOR, 5/4/2007, Surveillance Video Investigation
20. IAB IOR, 5/4/2007, Background Check, PO Rhome, 2 pages
21. IAB IOR, 5/4/2007, Background Check, PO Moscoso, 2 pages
22. IAB IOR, 5/4/2007, Metro card History Check
23. IAB IOR, 5/4/2007, Defendant background check
24. IAB IOR, 5/4/2007, Request for 911 and Radio Transmissions

25. IAB IOR, 5/4/2007, Request for Command Center tape
26. IAB IOR, 5/4/2007, Notifications to superiors
27. IAB IOR 5/7/2007, follow up on request for Surveillance
28. IAB IOR, 5/11/2007, No video available
29. IAB IOR, 5/17/2007, Received Command Center Disc
30. IAB IOR, 6/8/2007, Attempt to Obtain Medical Records
31. IAB IOR, 6/13/2007, Request for Canvass
32. IAB IOR, 6/13/2007, Defendant background check
33. IAB IOR, 6/13/2007, PO background checks
34. Photo Array, 4 pages
35. Prisoner Holding Pen Roster
36. Discharge Instructions, St. Vincent's Hospital
37. Complaint Report (typed), 2 pages
38. OLBS (typed), 3 pages
39. Prisoner Pedigree Card
40. Command Log, 2 pages
41. Desk Appearance Ticket
42. Roll Call Adjustment
43. Roll Call, 5 pages
44. Officer History, PO Rhome, 20 pages
45. Officer History, PO Moscoso, 18 pages
46. BADS printout, 3 pages
47. Request for 911 Sprint Records, 2 pages
48. Request for Command Center Disc, 2 pages
49. Medical Information and HIPAA release authorization by defendant, 2 pages
50. Metro card check, 3 pages
51. 49, Injured Prisoner in the Confines of TD-02, 2 pages
52. 49, Transmittal OG Case
53. E-Justice background check on defendant, 5 pages
54. Request for Canvass, 2 pages

Were this case not pending, DANY would object to the disclosure of a two page print out of Gregory Kleine's criminal history obtained from the State of New York Division of Criminal Justice Services ("DCJS") in response to a request DANY made to that agency. DCJS provided this criminal history to DANY on a confidential basis and solely for the purpose of the investigation of the criminal case. See 9 NYCRR § 6150.4.

DCJS is in the best position to assert relevant privileges and other legal restrictions to the disclosure of this information. You should make his request for this information directly to DCJS. You do not allege that you have attempted to obtain this information from DCJS and failed. See Thomas v. City of Mount Vernon, supra; see also Cruz v. Kennedy, supra.

Were this case not pending, DANY would object to the disclosure of the below detailed documents on the ground that they are protected by the work product, and law enforcement or official information privileges. The work product privilege protects interview summaries generated by attorneys during a criminal investigation. Such documents are privileged absent a

showing of substantial need. Fed.R.Civ.P. 26(b)(3); see United States v. Nobles, 422 U.S.225,238 (1975); see also Hickman v. Taylor, 329 U.S.495, 512 (1947); Coleco Indus. Inc. v. Universal City Studios, 110 F.R.D. 688, 690 (S.D.N.Y. 1986)(Sweet, J.); New Gold Equities Corp., et al., No. 89 Civ. 5472, 1990 Dist. LEXIS 15173 (S.D.N.Y. Nov. 13, 1990)(Dolinger, M.J.)(applying work product privilege to non-party). The privilege applies to documents which reflect an attorney's mental impressions, conclusions, opinions or legal theories and which "assemble[s] information, sift[s] what [the attorney] considers to be the relevant from the irrelevant facts, [and assists] to prepare his legal theories." Hickman v. Taylor, *supra* at 511. The law enforcement or official information privilege protects the government's interest in ensuring the secrecy of law enforcement documents. See G-69 v. Degnan, 130 F.R.D. 326, 332 (D.N.J. 1990); see also Thompson v. Lynbrook Police Dept., 172 F.R.D. 23, 26 (E.D.N.Y. 1997).

DANY's file contains the following documents that are privileged and not subject to disclosure:

1. Notes to assigned prosecutor from calendar part prosecutors in case of People v. Gregory Kleine
2. Correspondence by the assigned prosecutor or to the assigned prosecutor related to the prosecution of Gregory Kleine
3. Handwritten interview notes of witnesses by the assigned prosecutor
4. Criminal Court Supervisor Evaluation Sheet
5. D.A. Datasheet, page 1 only

Were this case not pending, DANY would have no objection to providing the following documents to you. They would be provided at a photocopying cost of twenty-five cents (\$0.25) per page:

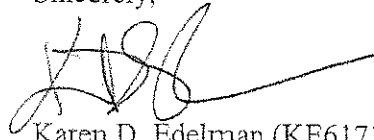
1. Criminal Court Complaint
2. Criminal Court back, 1 page

DANY reserves the right to raise detailed objections at a later time after the court issues a ruling on the objections DANY is making at this time. Thus, DANY's decision not to raise them in this letter should not be construed as a waiver of that right.

Should you believe that court action is necessary with regard to this matter pursuant to Rule 45(c)(2)(b) of the Federal Rules of Civil Procedure, please afford my Office reasonable notice so that our position may be made known to the Court. I am, of course, available to discuss this matter with you prior to any court intervention.

Since I am the attorney representing the District Attorney's Office, please do not attempt to directly contact the Assistant District Attorney or any other employees of this Office who may have been involved in the underlying criminal matter. If you have any questions about my response to your subpoena, please contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Edelman', with a long horizontal line extending to the right.

Karen D. Edelman (KE6171)
Assistant District Attorney
(212) 335-4335

cc: Assistant Corporation Counsel Sabrina Tann

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
GREGORY KLEINE,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER
LEONARDO MOSCOSO, TR#937146, and JOHN DOES
1-6 Representing Several Unidentified Police Officers
Assigned To Transit Division District 02, In their
Individual and Official Capacities,

Defendants.
----- X

**DEFENDANTS'
RESPONSES AND
OBJECTIONS TO
PLAINTIFF'S FIRST
DEMAND FOR
DOCUMENTS**

07 Civ. 5887 (PKC)

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, defendants City of New York and Leonardo Moscoso respond and object to plaintiff's First Demand for Documents as follows:

GENERAL STATEMENT

1. By responding to any request, defendants do not concede the materiality of the subject to which it refers. Defendants' responses are made expressly subject to, and without waiving or intending to waive, any questions, or objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence or for any other purpose, of any of the documents or information produced, or of the subject matter thereof, in any proceeding including the trial of this action or any subsequent proceeding.

2. Defendants object to this Document Request to the extent that it demands documents and/or information which are protected by the attorney-client or work-product privilege, or which constitute material prepared for litigation purposes. Defendants also object in the entirety to any request for documents which is not limited in time.

3. Inadvertent production of any document or information which is privileged, was prepared in anticipation of litigation, or is otherwise immune from discovery, shall not constitute a waiver of any privilege or of another ground for objecting to discovery with respect to that document or any other document, or its subject matter, or the information contained therein, or of defendants' right to object to the use of any such document or the information contained therein during any proceeding in this litigation or otherwise.

4. Defendants object in the entirety to any request for information or production from entities not represented by the Corporation Counsel of the City of New York.

5. Defendants object to these interrogatories to the extent that they seek to impose obligations beyond those required by the Federal Rules of Civil Procedure.

6. Defendants further object in the entirety to the interrogatories to the extent that they seek the home address of individuals identified by the defendants in response to the Interrogatories.

7. With respect to the request for the production of documents, defendants will provide, under separate cover, a privilege index, if necessary.

8. Defendants are continuing to search for information responsive to plaintiff's requests and therefore reserve the right to supplement its response to each request with additional information, if and when such information becomes available to defendants' counsel. Defendants also reserve the right to object to the future disclosure of any such information.

RESPONSES AND OBJECTIONS TO REQUESTS FOR DOCUMENTS

DOCUMENT REQUEST NO. 1:

NYPD arrest report ID #: M07639919, including online booking arrest worksheet and arrest photographs.

OBJECTION AND RESPONSE TO REQUEST NO. 1:

Defendants object to Document Request No. 1 on the grounds that it is overbroad, and to the extent it seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants refer plaintiff to the Online Arrest Report No. M07639919 annexed to defendants initial disclosures dated December 5, 2007 and reproduced by letter dated December 27, 2007 bearing Bates Nos. 8-10 and to the Arrest Report bearing Bates No. 15 and the Online Booking Arrest Worksheet bearing Bates Nos. 16-17 annexed hereto for information responsive to this request. Defendants state that they continue to search for additional documents responsive to this request and will supplement their response if such documents are located.

DOCUMENT REQUEST NO. 2:

Memo BOOK entries for 5/3/07-5/4/07 of defendant Moscoso and fellow OFFICERS.

OBJECTION AND RESPONSE TO REQUEST NO. 2:

Defendants object to Document Request No. 2 on the grounds that it is vague, ambiguous, overbroad, assumes facts not established and to the extent it seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants refer plaintiff to Officer Moscoso's memobook entry for the incident alleged in the complaint bearing Bates Nos. 20-23 annexed hereto. Defendants state further that they continue to search for additional documents responsive to this request and will supplement their response if such documents are located.

DOCUMENT REQUEST NO. 3:

UF 61 complaint report

OBJECTION AND RESPONSE TO REQUEST NO. 3:

Defendants object to Document Request No. 3 on the grounds that it is vague and overbroad and assumes facts not established. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants state, upon information and belief, that they continue to search for information responsive to this request and will supplement their response if such documents are located.

DOCUMENT REQUEST NO. 4:

Medical treatment of prisoner form

OBJECTION AND RESPONSE TO REQUEST NO. 4:

Defendants object to Document Request No. 4 on the grounds that it is vague, ambiguous, overbroad and assumes facts not established. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants state that they are searching for documents responsive to this request, and will supplement their response if such documents are located.

DOCUMENT REQUEST NO. 5:

Complete Internal Affairs file for log # 07-16913 callout #: 07-1145 and audio tape (go 15) of call out with IAB log for subject call photo arrays #13220 and 13219 photographs of complaint pg 206-13 interrogation (audio tape and transcripts) of P.O. Moscoso and any/all other officers.

OBJECTION AND RESPONSE TO REQUEST NO. 5:

Defendants object to Document Request No. 5 on the grounds that it is vague, ambiguous, overbroad, assumes facts not established, to the extent it seeks documents which are not in defendants' possession, custody or control and to the extent it calls for documents protected by privilege and privacy issues. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants state that they are

searching for documents responsive to this request and will supplement their response if such documents are located.

DOCUMENT REQUEST NO. 6:

Command log, transit district 02, 5/3/07-5/4/07

OBJECTION AND RESPONSE TO REQUEST NO. 6:

Defendants object to Document Request No. 6 on the grounds that it is vague, ambiguous, overbroad and to the extent it seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants refer plaintiff to the Command Log entry reflecting plaintiff's arrest bearing Bates No. 11, which was annexed to defendants' initial disclosures dated December 5, 2007.

DOCUMENT REQUEST NO. 7:

Roll call for transit dist 02, 5/3/07-5/4/07

OBJECTION AND RESPONSE TO REQUEST NO. 7:

Defendants object to Document Request No. 7 on the grounds that it is overbroad and seeks information not relevant or reasonably calculated to lead to the discovery of admissible evidence insofar as plaintiff has already identified the officers he wishes to sue in this action.

DOCUMENT REQUEST NO. 8:

Sprint report, 911 call, radio traffic with respect to incident and plaintiff's arrest and detention.

OBJECTION AND RESPONSE TO REQUEST NO. 8:

Defendants object to Document Request No. 8 on the grounds that it is vague, ambiguous, overbroad and assumes facts not established. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants state that they

are searching for documents responsive to this request and will supplement their response if such documents are located.

DOCUMENT REQUEST NO. 9:

Personnel file/disciplinary history of P.O. Moscoso

OBJECTION AND RESPONSE TO REQUEST NO. 9:

Defendants object to Document Request No. 9 on the grounds that it is vague, ambiguous, overbroad, burdensome, not limited in time, to the extent it seeks privileged or private documents or documents not relevant or reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding, and without waiving or in any way limiting these objections or the General Objections and limiting the request to substantiated allegations within ten years of the institution of this action of false statement or conduct of a nature similar to that alleged in the complaint, defendants state, upon information and belief, that there are no documents responsive to this request. Additionally, defendants will produce the performance evaluations Officer Moscoso, subject to the execution of an appropriate Stipulation and Protective Order.

DOCUMENT REQUEST NO. 10:

File of the District Attorney, New York County

OBJECTION AND RESPONSE TO REQUEST NO. 10:

Defendants object to Document Request No. 10 on the grounds that it is vague, ambiguous, overbroad and calls for production of documents which are sealed, not in defendant's possession, custody or control and are publicly and equally available. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendants refer plaintiff to the documents produced by the District Attorney's

Office in response to plaintiff's subpoena endorsed by the Judge on December 13, 2007 for documents responsive to this request.

DOCUMENT REQUEST NO. 11:

CCRB file with respect to plaintiff's complaint against the defendants.

OBJECTION AND RESPONSE TO REQUEST NO. 11:

Defendants object to Document Request No. 11 on the grounds that it is vague, overbroad and to the extent that it seeks information not within defendants' possession, custody or control and protected by law enforcement privilege. Notwithstanding, and without waiving or in any way the General Objections, defendants state that they have been informed by the CCRB that the investigation of Case No. 200706535 is currently open and therefore, there will be no documents that are responsive to this request available for production until the investigation is closed and a decision is reached by the CCRB panel.

DOCUMENT REQUEST NO. 12:

Copies of any/all records obtained by defense counsel pursuant to subpoena and/or through submission of authorization furnished by plaintiff herein.

OBJECTION AND RESPONSE TO REQUEST NO. 12:

Defendants object to Document Request No. 12 on the grounds that it is vague, ambiguous, overbroad and to the extent that the documents sought are equally accessible to both parties. Notwithstanding, and without waiving or in any limiting these objections or defendants' General Objections, defendant refers plaintiff to the documents previously provided bearing Bates Nos. 1-14 and the documents annexed hereto bearing Bates Nos. 15-17.

Dated: New York, New York
January 8, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York and
Leonardo Moscoso
100 Church Street, Room 3-221
New York, New York 10007
(212) 788-8600

By:



SABRINA TANN
Assistant Corporation Counsel

TO: **BY FIRST CLASS MAIL**

ROBINSON & YABLON, P.C.
Andrew M. Laskin (AL9379)
Attorney for Plaintiff
232 Madison Avenue, Suite 1200
New York, New York 10016
(212) 725-8566


ON LINE BOOKING SYSTEM ARREST WORKSHEET
 PD 244-159 (Rev. 5-01)-Pent-RMJ

Arrest No.	Arrest Pct.	Sector	DAT <input type="checkbox"/> Yes <input type="checkbox"/> No	Return Date	Officer Excused <input type="checkbox"/> Yes <input type="checkbox"/> No	Special Event Code
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COMPLETE THIS SECTION ONLY FOR AN ARREST WHEN A COMPLAINT REPORT WAS PREVIOUSLY PREPARED

Original Complaint Pct.	Date	Offense	Complainant's Name (Last Name, First, M.I.)
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REQUIRED ONLY FOR AN OCCB ARREST AND AN ARREST NOT REQUIRING A COMPLAINT REPORT

Time	Date	Address/Location Of Offense: <input type="checkbox"/> Inside <input type="checkbox"/> In Front Of <input type="checkbox"/> Rear Of <input type="checkbox"/> Opposite Of	Apt/Room #
Cross Streets 145 th	5/4/07	Subway & 7 th Ave	Corner <input type="checkbox"/> N/E <input type="checkbox"/> N/W <input type="checkbox"/> S/E <input type="checkbox"/> S/W
Jurisdiction (check one) <input type="checkbox"/> NYPD <input checked="" type="checkbox"/> NYPD Transit Bureau <input type="checkbox"/> NYPD Housing Bureau <input type="checkbox"/> Other			
Premises Type: <input type="checkbox"/> Residential <input type="checkbox"/> House of Worship		School: <input type="checkbox"/> Public <input type="checkbox"/> Other	
<input type="checkbox"/> Public Transportation <input type="checkbox"/> Commercial <input type="checkbox"/> Other			
On NYC Bd. of Ed. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Type of School: <input type="checkbox"/> Elem. <input type="checkbox"/> IS <input type="checkbox"/> JHS <input type="checkbox"/> HS <input type="checkbox"/> Sp. Ed.	School No. School Name
NYC Transit Station		Line # Location in Transit System	NYCHA Development Name
145 th		1 N/B 96 th	

THE FOLLOWING INFORMATION MUST BE COMPLETED FOR ALL ARRESTS

Department NYPD	Command TD-2	Tax Registry No. 987146	Identification No. (If Not NYPD)	Shield No. 367
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Arresting Officer DD	Last Name Moscato, Leonardo	First	M.I.
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On Duty <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	In Uniform <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Squad	Chart	Primary Assignment: <input type="checkbox"/> Investigatory <input type="checkbox"/> Beat Officer <input type="checkbox"/> Other Uniform <input checked="" type="checkbox"/> Anti-Crime
Force Used: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Type: <input type="checkbox"/> Handgun <input type="checkbox"/> Chemical Agent <input type="checkbox"/> Rifle/Shotgun	Reason For Force: <input type="checkbox"/> Overcome Assault <input type="checkbox"/> Arresting Officer Injured			
<input type="checkbox"/> Physical Force <input type="checkbox"/> Baton	<input type="checkbox"/> Other <input type="checkbox"/> Prevent Escape <input type="checkbox"/> Restrain <input type="checkbox"/> Other <input type="checkbox"/> Yes <input type="checkbox"/> No			

Assigned <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Department	Command	Tax Registry No.	Ident. No. (If Not NYPD)	Last Name, First, M.I.
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Time	Date	Address/Location Of Arrest: <input type="checkbox"/> Inside <input type="checkbox"/> In Front Of <input type="checkbox"/> Rear Of <input type="checkbox"/> Opposite Of	Apt/Room #
Cross Streets 145 th	5/4/07	Subway & 7 th Ave	Corner <input type="checkbox"/> N/E <input type="checkbox"/> N/W <input type="checkbox"/> S/E <input type="checkbox"/> S/W
Arrest Numbers Of Associates: 1. 2. 3.			
Is This Arrest Related <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, Serial #			
To Stop And Frisk Report <input type="checkbox"/> Yes <input type="checkbox"/> No			

Invoice #	Command	Type:	Drugs <input type="checkbox"/> Veh. <input type="checkbox"/> Curr. <input type="checkbox"/> Gun <input type="checkbox"/> Jewelry <input type="checkbox"/> Boat <input type="checkbox"/> Other
Invoice #	Command	Type:	Drugs <input type="checkbox"/> Veh. <input type="checkbox"/> Curr. <input type="checkbox"/> Gun <input type="checkbox"/> Jewelry <input type="checkbox"/> Boat <input type="checkbox"/> Other

Last Name Kleine Gregory	First	M.I.	Date Of Birth 3/14/66	Age
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Occupation: Engineer	License/Permit Type (Excluding Drivers Lic.): <input type="checkbox"/> Handgun <input type="checkbox"/> Tow Truck Driver <input type="checkbox"/> Tax Medallion <input type="checkbox"/> Water Front Lic. <input type="checkbox"/> License/Permit #
Telephone Calls: 1. Name	2. Name
3. Name	

Physical Condition: <input checked="" type="checkbox"/> Apparently Normal <input type="checkbox"/> Injury-To Hospital <input type="checkbox"/> Intox-Drugs <input type="checkbox"/> Sick-To Hospital <input type="checkbox"/> Unknown	<input type="checkbox"/> Injured <input type="checkbox"/> Injury-RMA <input type="checkbox"/> Intox-Unknown <input type="checkbox"/> Sick-RMA
<input type="checkbox"/> EDP-To Hospital <input type="checkbox"/> Injury-Treated & Released <input type="checkbox"/> Pregnant-Normal <input type="checkbox"/> Sick-Treated & Released	<input type="checkbox"/> Pregnant-Requires Medical Aid <input type="checkbox"/> Unconscious

Type of Drug Used: <input type="checkbox"/> Opium & Derivative <input type="checkbox"/> Other Cocaine <input type="checkbox"/> Synthetic Opiates <input type="checkbox"/> Hallucinogens <input type="checkbox"/> Glue-Toxic Vapors <input type="checkbox"/> Unknown	<input type="checkbox"/> Crack <input type="checkbox"/> Marijuana/Hashish <input type="checkbox"/> Depressant/Stimulant <input type="checkbox"/> Hypo-Syringe-Needle <input type="checkbox"/> Other <input checked="" type="checkbox"/> None
--	--

Juv. Offender <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Number of Prior School Attending	Mother's Maiden Name
--	----------------------------------	----------------------

Relative <input type="checkbox"/> Parent <input type="checkbox"/> Guardian (Name (Print))	Yale #	Time Notified	Personal <input type="checkbox"/> Yes <input type="checkbox"/> No
Notified: <input type="checkbox"/> Other Relative			Recog: <input type="checkbox"/> Yes <input type="checkbox"/> No

CHARGES	ATTEMPT?	LAW	SECTION	SUB.	CLASS	TYPE	COUNTS	DESCRIPTION
Top Chg.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	PL	240.20 (1)		V	U	1	Discon
2nd Chg.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	PL	205.30		A	M	1	Possessing Arms
3rd Chg.	<input type="checkbox"/> Yes <input type="checkbox"/> No							
4th Chg.	<input type="checkbox"/> Yes <input type="checkbox"/> No							
5th Chg.	<input type="checkbox"/> Yes <input type="checkbox"/> No							

If Drug Possession/Sale is Top Charge: ☐ Crack ☐ Other Cocaine ☐ Opium Deriv. ☐ Synthetic ☐ Other Drug

NARRATIVE
 At 11:10 PM, was observed acting in a violent manner when PO attempted to put Def. in custody. Def. drew his arms & refused to be arrested.
 out # 9307

Rank/Title: Arresting Off. / Assigned Off. Name (Print) Sgt. Moscato, Leonardo	Signature	Tax Registry No.	Command	Agency
Rank/Title: Supervisor Approving Name (Print) Sgt. Nunez, John	Signature	Tax Registry No.	Command	Agency
			TP-02	NYPD

COMPLAINT INFORMATION		Date	Offense	Victim's Name	Location Of Occ.
Order Of Protection <input type="checkbox"/> Yes <input type="checkbox"/> No	Compl. #	Issuing Court	Docket #	Exp. Date Of Order Of Protection	
Precinct Of Arrest	Arrest #	Last Name	First	M.I.	
Nickname/Alas/Maiden Name	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Date Of Birth	Age	Height	Weight
Eye Color	Hair Color	Hair Length	U.S. Citizen <input type="checkbox"/> Yes <input type="checkbox"/> No	Race <input checked="" type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Am. Ind./Alaskan Native <input type="checkbox"/> Asian/Pacific Is. <input type="checkbox"/> Hisp. White <input type="checkbox"/> Hisp. Black	State/Country Of Birth
Address (NYC <input type="checkbox"/> NYS <input type="checkbox"/> Other <input type="checkbox"/> Homeless)	Appt / Room #	City	State/Country	Zip	Resident Pct.
Business Address	Business #				
Home Phone #	Beeper #				
E-Mail Address	Cell Phone #				
Is Interpreter Needed For Further Investigation: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, Indicate Language	Accent <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Victim and Perp. Living Together: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Can Identify Perp.: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Victim States Perp. is:	<input type="checkbox"/> Mother <input type="checkbox"/> Uncle <input type="checkbox"/> Son <input type="checkbox"/> Grandchild <input type="checkbox"/> Fiancee/Fiancee <input type="checkbox"/> Employer <input type="checkbox"/> Unknown	<input type="checkbox"/> Husband <input type="checkbox"/> C/L Wife <input type="checkbox"/> Guardian <input type="checkbox"/> Aunt <input type="checkbox"/> Daughter <input type="checkbox"/> In-Law <input type="checkbox"/> Boyfriend <input type="checkbox"/> Co-Worker	<input type="checkbox"/> C/L Husband <input type="checkbox"/> Divorced <input type="checkbox"/> Grandfather <input type="checkbox"/> Brother <input type="checkbox"/> Nephew <input type="checkbox"/> Same Sex Partner <input type="checkbox"/> Girlfriend <input type="checkbox"/> Friend/Acquaintance	<input type="checkbox"/> Wife <input type="checkbox"/> Father <input type="checkbox"/> Grandmother <input type="checkbox"/> Sister <input type="checkbox"/> Niece <input type="checkbox"/> Other Relative <input type="checkbox"/> Employee <input type="checkbox"/> Stranger	
Social Security#	N.Y.C.H.A. Resident <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, Name Of Development	N.Y.C.H.A. Employee <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	On Duty <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	N.Y.C. Transit Employee <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Physical Force: <input type="checkbox"/> Used <input type="checkbox"/> Displayed <input type="checkbox"/> Possessed <input type="checkbox"/> Threatened <input type="checkbox"/> None	Weapon: <input type="checkbox"/> Gun: <input type="checkbox"/> Handgun <input type="checkbox"/> Rifle <input type="checkbox"/> Other Gun (Specify) <input type="checkbox"/> Knife <input type="checkbox"/> Other <input type="checkbox"/> Cutting Instrument <input type="checkbox"/> Boxcutting <input type="checkbox"/> None	Zip Gun <input type="checkbox"/> Toy Gun <input type="checkbox"/> Shot Gun <input type="checkbox"/> Machine Gun <input type="checkbox"/> Poison/Chemical Agents <input type="checkbox"/> Bomb/Incendiary Device <input type="checkbox"/> Other Weapon (Describe)	Gun Discharged <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Gang Affiliation: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, Indicate Name Of Gang	Gang Identifiers (Colors, Beads, Tattoos, Etc.)			
Used Subway System <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, Station Entered And Time	Matro Card: <input type="checkbox"/> Used <input type="checkbox"/> Possessed Only	Type: <input type="checkbox"/> Student <input type="checkbox"/> Standard <input type="checkbox"/> Senior Citizen <input type="checkbox"/> Handicapped <input type="checkbox"/> Transit Employee <input type="checkbox"/> Police	Serial #	
Statement Made By Perpetrator During Commission Of Offense			Method Of Flight		
M.G. (Check All That Apply)					
<input type="checkbox"/> Asked Questions/Offered Assistance		<input type="checkbox"/> Followed Victim Along Street		<input type="checkbox"/> Perp Made Statement	
<input type="checkbox"/> Bag Opener		<input type="checkbox"/> Followed Victim To/From ATM/Bank		<input type="checkbox"/> Perp Offered Sex	
<input type="checkbox"/> Bicycle Used		<input type="checkbox"/> Hijack		<input type="checkbox"/> Pick Pocket	
<input type="checkbox"/> Car Jack		<input type="checkbox"/> Jewelry/Neck Chain Snatch		<input type="checkbox"/> Property Snatched From Hand	
<input type="checkbox"/> Con Game		<input type="checkbox"/> Jumped From Vehicle		<input type="checkbox"/> Push-In	
<input type="checkbox"/> Deception Used		<input type="checkbox"/> Motorcycle Used		<input type="checkbox"/> Purse/Wallet Snatch	
<input type="checkbox"/> Entry Through Window/Fire Escape		<input type="checkbox"/> Note Was Passed		<input type="checkbox"/> Took Victim To Isolated Area	
<input type="checkbox"/> Opened Safe		<input type="checkbox"/> Payroll		<input type="checkbox"/> Other	
Transit M.O.					
<input type="checkbox"/> Escaped Between Train Cars					
<input type="checkbox"/> Escaped By Track/Tunnel					
<input type="checkbox"/> Followed Victim From Street To Subway					
<input type="checkbox"/> Held Train Doors					
<input type="checkbox"/> Lush Worker					
<input type="checkbox"/> Reached From Moving Train					
<input type="checkbox"/> Removed Victim From Subway System					
Other:					
Action Towards Victim: (Check All That Apply)					
<input type="checkbox"/> Fired Shot At		<input type="checkbox"/> Head Gear: <input type="checkbox"/> Baseball Cap <input type="checkbox"/> Beret/Military Cap <input type="checkbox"/> Cowboy Hat		<input type="checkbox"/> Foot Wear: <input type="checkbox"/> Barefoot <input type="checkbox"/> Boots <input type="checkbox"/> Dress Shoes <input type="checkbox"/> High Heels	
<input type="checkbox"/> Injury Using Physical Force		<input type="checkbox"/> Mask		<input type="checkbox"/> Outer Wear: <input type="checkbox"/> Gang, Team, School Jacket <input type="checkbox"/> Leather, Suade, Fur Trim <input type="checkbox"/> Military Clothing <input type="checkbox"/> Overcoat/Top Coat	
<input type="checkbox"/> Made Victim Strip		<input type="checkbox"/> Ski Cap/Watch Cap		<input type="checkbox"/> Sneaker/Ski Hooded Jacket	
<input type="checkbox"/> Pepper/Chemical Spray		<input type="checkbox"/> Skull Cap		<input type="checkbox"/> Sport/Dress Jacket	
<input type="checkbox"/> Stabbed/Slashed/Cut		<input type="checkbox"/> Stocking Cap		<input type="checkbox"/> Sweatshirt/Jogging Jacket	
<input type="checkbox"/> Struck With Object		<input type="checkbox"/> Straw Hat/Fedora		<input type="checkbox"/> T-Shirt/Tank Top	
<input type="checkbox"/> Tied/Handcuffed		<input type="checkbox"/> Turban		<input type="checkbox"/> Waist Length Jacket	
<input type="checkbox"/> Tortured		<input type="checkbox"/> Unk/None		<input type="checkbox"/> Unk/None	
<input type="checkbox"/> Used/Threat With Flame		<input type="checkbox"/> Other		<input type="checkbox"/> Unk/None	
<input type="checkbox"/> Unk/None		<input type="checkbox"/> Other		<input type="checkbox"/> Unk/None	
<input type="checkbox"/> Other		<input type="checkbox"/> Other		<input type="checkbox"/> Other	
Special Characteristics: (Check All That Apply)					
<input type="checkbox"/> Beard		<input type="checkbox"/> Eyebrows		<input type="checkbox"/> Goggles	
<input type="checkbox"/> Arm (Amputee)		<input type="checkbox"/> Ears		<input type="checkbox"/> Left Handed	
<input type="checkbox"/> Eyes		<input type="checkbox"/> Hand/Arm		<input type="checkbox"/> Limp	
<input type="checkbox"/> Leg (Amputee)		<input type="checkbox"/> Mustache		<input type="checkbox"/> Odor	
<input type="checkbox"/> Lips		<input type="checkbox"/> Nose		<input type="checkbox"/> Teeth	
<input type="checkbox"/> Sideburns		<input type="checkbox"/> Tracks		<input type="checkbox"/> Very Muscular	
<input type="checkbox"/> Speech Impairment/Slutter		<input type="checkbox"/> Sun Glasses		<input type="checkbox"/> Eye Glasses	
<input type="checkbox"/> Skin Condition		<input type="checkbox"/> Unk/None		<input type="checkbox"/> Unk/None	
<input type="checkbox"/> Other		<input type="checkbox"/> Other		<input type="checkbox"/> Other	
Other Clothing/Accessories:					
<input type="checkbox"/> Bag/Briefcase		<input type="checkbox"/> Dirty/Torn/Messy		<input type="checkbox"/> Skirt/Dress	
<input type="checkbox"/> Gloves		<input type="checkbox"/> Jeans		<input type="checkbox"/> Slacks	
<input type="checkbox"/> Jewelry		<input type="checkbox"/> Radio Used		<input type="checkbox"/> Sweat/Jogging Clothes	
<input type="checkbox"/> Scarf/Bandana/Sweatband		<input type="checkbox"/> Shorts		<input type="checkbox"/> Tools/Keys	
<input type="checkbox"/> Uniform		<input type="checkbox"/> Well Dressed		<input type="checkbox"/> Work Clothes	
<input type="checkbox"/> Unk/None		<input type="checkbox"/> Unk/None		<input type="checkbox"/> Unk/None	
<input type="checkbox"/> Other		<input type="checkbox"/> Other		<input type="checkbox"/> Other	
Distinguished Body Marks:					
#1 <input type="checkbox"/> Birthmark <input type="checkbox"/> Body Piercing <input type="checkbox"/> Scar <input type="checkbox"/> Tattoo (Can't Describe) <input type="checkbox"/> Tattoo Picture <input type="checkbox"/> Tattoo Word <input type="checkbox"/> Tattoo Word & Picture <input type="checkbox"/> Unk/None <input type="checkbox"/> Other		#2 <input type="checkbox"/> Arm <input type="checkbox"/> Face/Head <input type="checkbox"/> Hand <input type="checkbox"/> Leg <input type="checkbox"/> Neck <input type="checkbox"/> Torso		Describe Tattoo	
Words: #1		#2		Picture #1	
#2		#2		#2	
Impersonation Of:					
<input type="checkbox"/> Customer/Client					
<input type="checkbox"/> Employee					
<input type="checkbox"/> Female					
<input type="checkbox"/> Law Enforcement Officer					
<input type="checkbox"/> Male					
<input type="checkbox"/> Security Officer					
<input type="checkbox"/> Public Servant					
<input type="checkbox"/> Utility Worker					
<input type="checkbox"/> Unk/None					
<input type="checkbox"/> Other					

NEW YORK CITY POLICE DEPT ARREST REPORT RUN DATE 07/30/07 RUN TIME 13:18:34
THIS IS AN UPDATED ARREST

DEFENDANT INFORMATION

NAME: KLEINE GREGORY SEX: M RACE: WHITE ARREST ID: M07639919
AKA: CITIZ? 999 POB: USA DOB: 08/14/66 AGE: 40
PHONE: ()

ADDR: 101 WESTEND AVEN MANHATTAN NY 10023 RES PCT: UNK-IN NYC
SKIN TONE: LIGHT HGT: 5-10 WGT: 165 EYE COLOR: HAZEL HAIR COLOR: BLOND
SOC STATUS: SOC SEC #: DEFT/VICT RELAT: 9999999999
PHYSICAL COND: INJ-TREATED RELEASED TYPE DRUG USED: NONE
OCCUPATIONAL AREA: OTHER
LICENSE/PERMIT-TYPE(S) (DRIVER/OPR/REG): NO:
CALLS: NO: NAME: REFUSED NO: () NAME:
ORACLE# 000000000 NYSID# 2577568Q FAX# MPO04490 ARR.PROC: D A T

NARRATIVE: AT T/P/O DEFT. WAS OBSERVED ACTING IN A VIOLENT MANNER. WHEN PO ATTEMPTED TO PUT DEFT IN CUSTODY DEFT FLARED HIS ARMS AND REFUSED TO BE ARRESTED. CN#

CHARGES INFORMATION

	ATT	LAW	SEC	SUB	CLS	TYPE	CTS	DESCRIPTION
TOP CHARGE-->	N	PL	205.30	00	M	A	01	RESIST ARREST
TOTAL CHARGES	N	PL	240.20	01	V	0	01	DISORD CONDUCT
COUNT = 02								

ARREST RELATED INFORMATION

TIME 02:20 DATE 05/04/07 CMD 006
WEAPON POSS/USED: ARREST LOC: SUBWAY MANHATTAN 1
NUM OF ASSOC: 00
PROPERTY VOUCHERS:

1 NO: CMD: VAL: TYPE:
2 NO: CMD: VAL: TYPE:
3 NO: CMD: VAL: TYPE:

COMPLAINANT/UF-61/VICTIM INFORMATION

IS COMPL A CORP? NO OR PSNY? YES OR DISABLED? NO TOTAL VICTIMS = 00
COMPL NAME:

ADDR: TEL NUM: ()
AIDED NO: AIDED CMD: ACC NO: ACC CMD:
UF-61: NO: 003978 CMD: 613 SECTOR: G JURISDICTION: N.Y. TRANSIT POLICE
TIME & DATE OF OCCURRENCE: 02:10 ON 04/04/07 METHOD:
PREMISES: LOCATION: MANHATT

ARRESTING OFFICER INFORMATION

NAME: M080000 LEONARDO RANK: POM TAX NUMBER: SHELLO: 03617
DEPT: TFPD CHART: FIRST PLIN CT SQUAD: A1 ASSN:

OFFICER: INJURED? NO ASSIGNED? YES ON DUTY? YES IN UNIFORM? NO
USED FORCE? YES TYPE: 999999 STATE OF NEW YORK REASON: 99999990 9999999999
COUNTY OF NEW YORK

①

Name Moscoso, L Tax Reg. No. [REDACTED]

CITY OF NEW YORK
POLICE DEPARTMENT

A 503561

Date Opened 2-23-03 Supervisory Officer [Signature]

Date Closed 4/1/03 Supervisory Officer [Signature]

PD-112 (4/5/00) 12

*Kozlos are under the Down / Poss. strong
Arrest made due to intoxication, OSA on
Kleine, Gregory m/w 4/1/06
trucks and released @
St. Vincent Hospital
Arrested 10/26/94, 10/27/97

22

[REDACTED]
[REDACTED]
602 6/6, 7/13

Klane, Gregory m/w/b/m/k
Intro acting disorderly
@ 4/12 Resisted Arrest
and was arrested.

Deft moved to St. Vincent
Hospital treated and
released Deft apologized
for his actions. Deft.
D.A.T. and released
@ 8:45 AM - 8/10/08

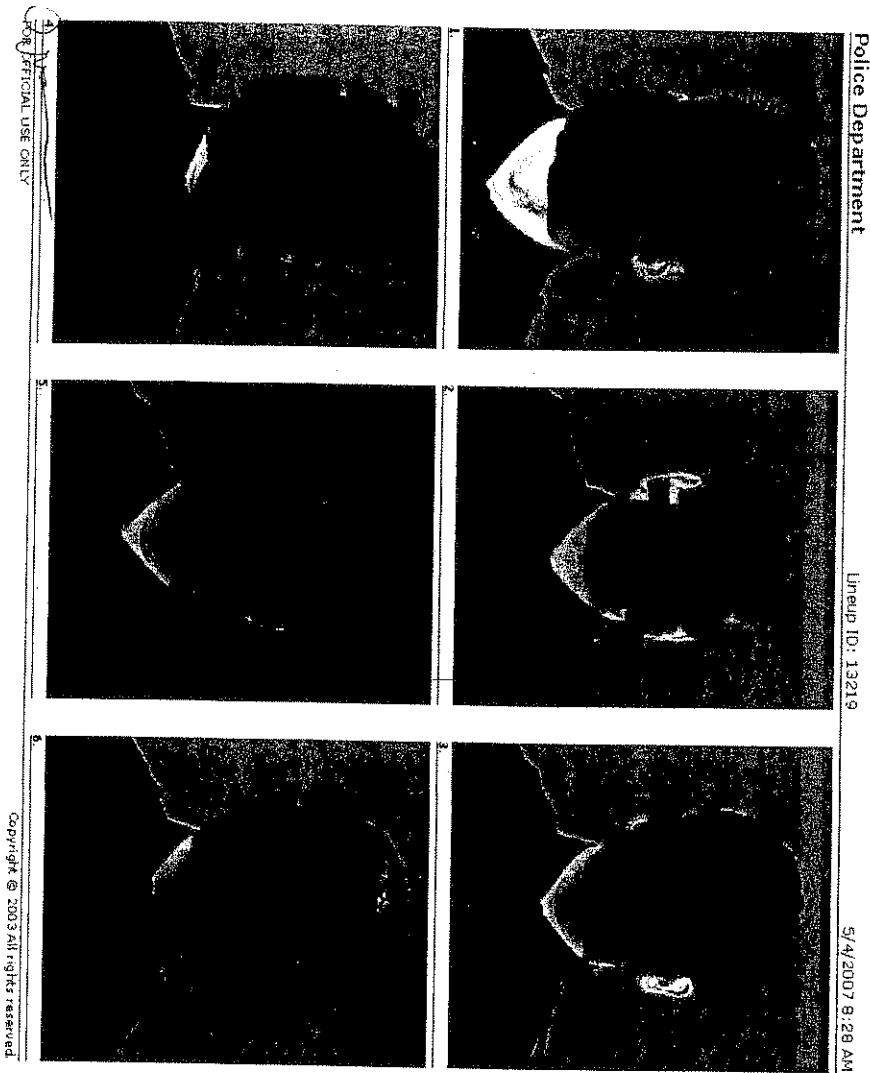
FRIDAY MAY 4, 2007

REDACTED

POSTED
Sgt Lynch to Desk Sgt Pittman to Admin

NO. PC-H05052, L.A. 44-111 ST # 8377-CND TDR
ARREST LOC. 1st & Main R127 ARREST TIME 8:22
DEF. KLOVE, BLOVE S. I. M. P. CE. U. AGE 20 DOB 11/16/66 (C) 11/16/66
ADDRESS 1st & Main St. Apt. 127
CHARGE(S) 2:35m. Molesting
FUNDS 200.00 RETINVOUCH PROPERTY
UNCARED FOR DEPENDENTS none
PHYSICAL/MENTAL COND. Normal, Bldline as NWC.
DEBRIEFED BY ALD
REMARKS Transferred to Admin.

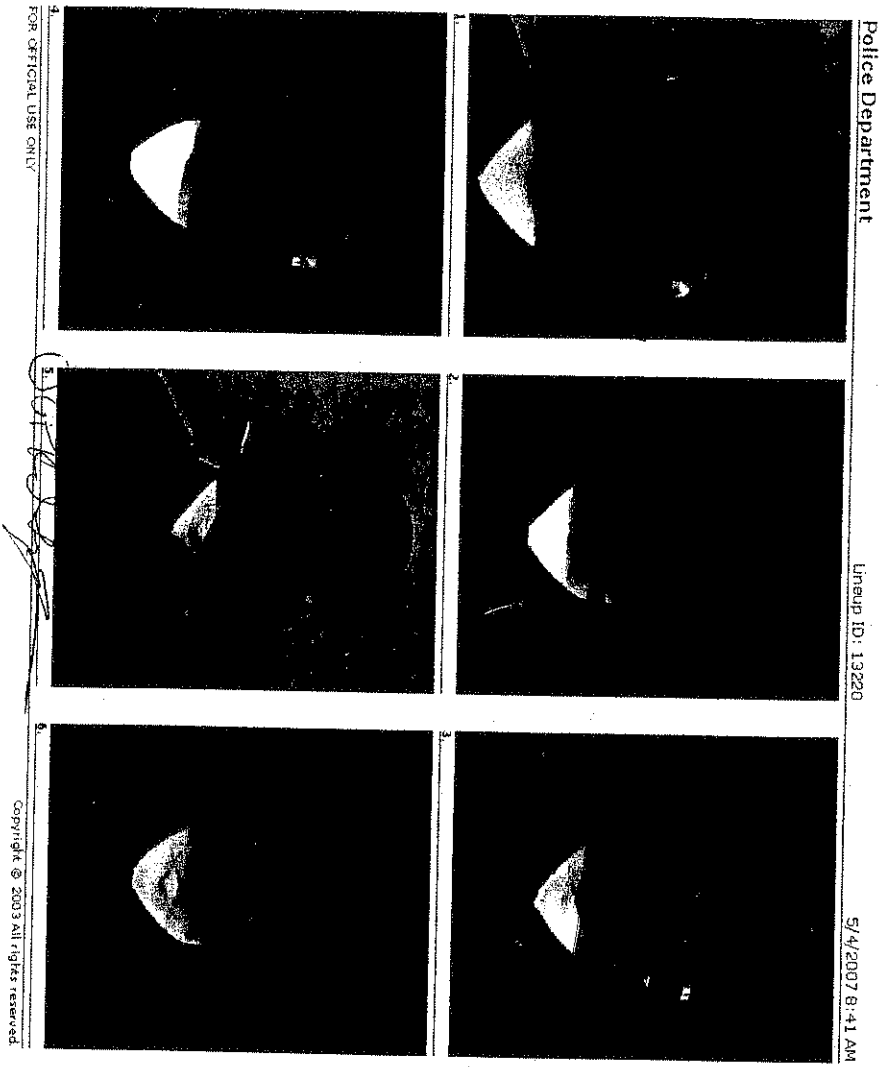
REDACTED



<http://192.168.39.147/sabapp/printArrayContent.aspx?arrayID=13219&type=public>

5/4/2007

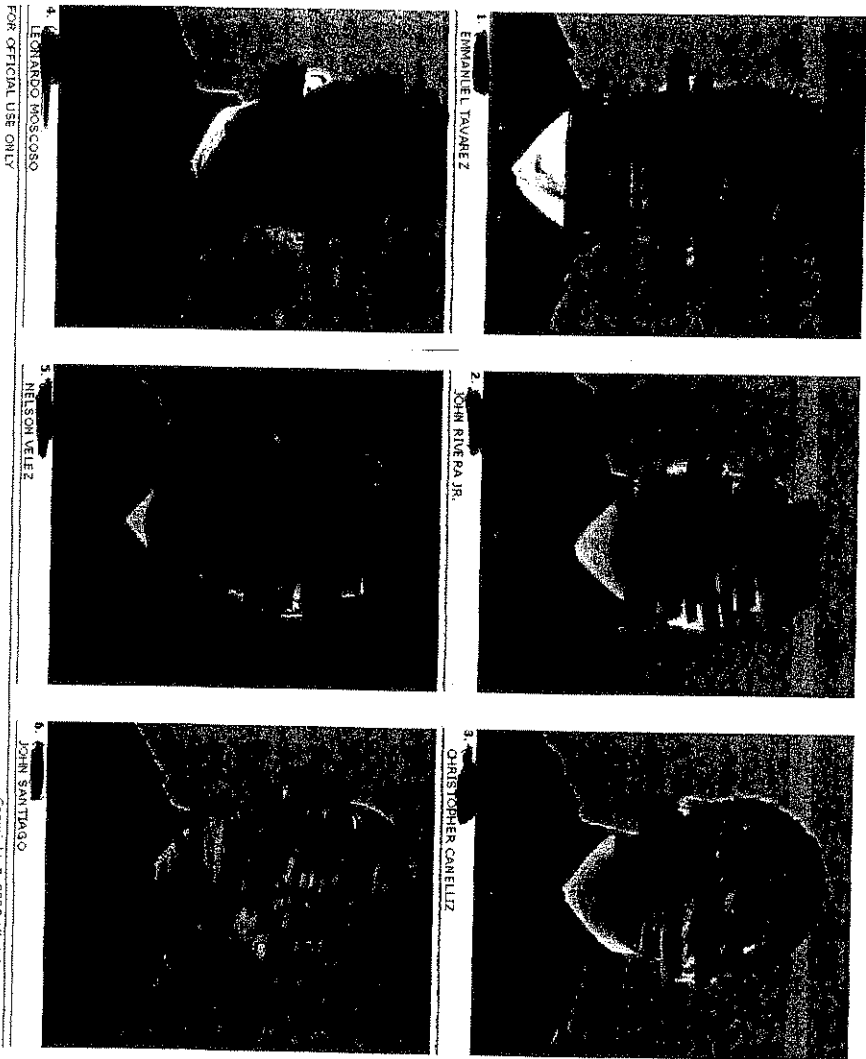
REDACTED



<http://192.168.39.147/iabapp/printArrayContent.aspx?arrayID=13220&type=public>

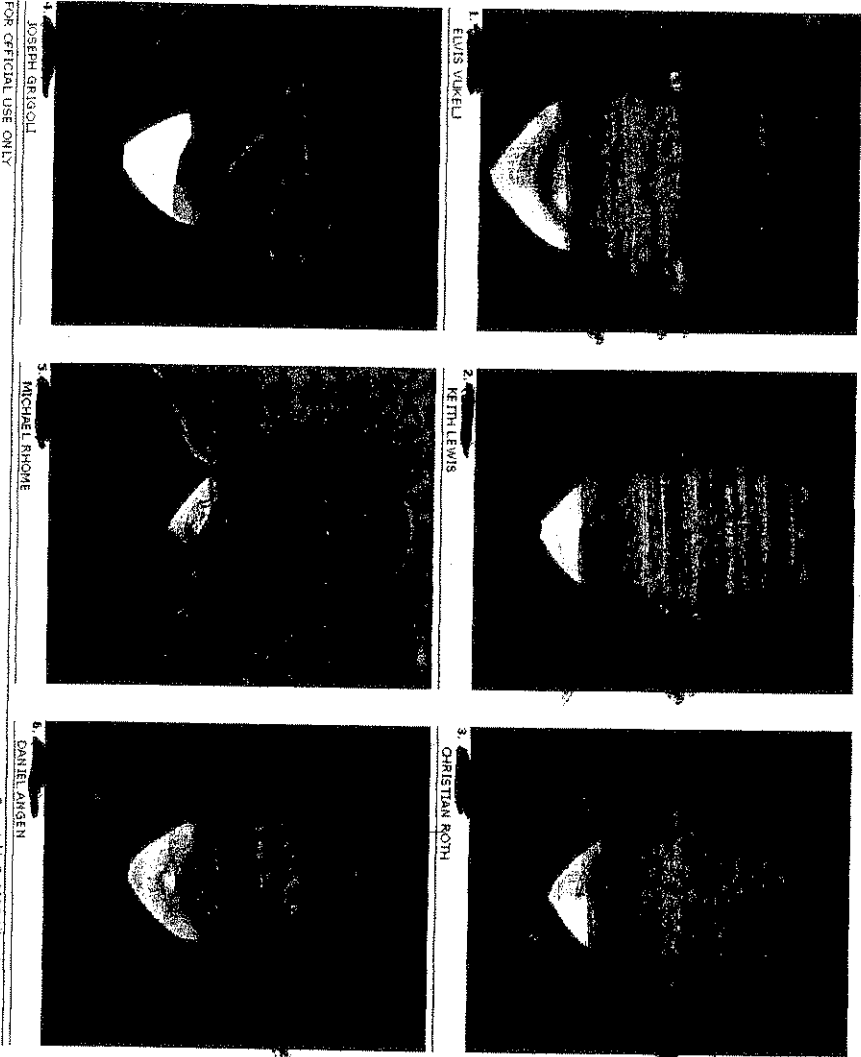
5/4/2007

REDACTED



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REDACTED



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DEFENDANTS' EXHIBITS

DEFENDANTS' EXHIBITS



ROBERT M. MORGENTHAU
DISTRICT ATTORNEY

Email: edelmank@dany.nyc.gov

DISTRICT ATTORNEY
OF THE
COUNTY OF NEW YORK
ONE HOGAN PLACE
New York, N. Y. 10013
(212) 335-9809

January 11, 2008

Andrew M. Laskin
232 Madison Avenue, Suite 1200
New York, NY 10016

Re: Gregory Kleine v. The City of New York, et al.
Case Number: 06 CV 1089 (PKC)

Dear Mr. Hoffner:

I represent the New York County District Attorney's Office ("DANY"), a non-party, in connection with the above matter. On December 20, 2007, DANY received your subpoena dated December 13, 2006 in the above matter. I am writing to object to compliance with this subpoena because it is defective, it requests materials which are privileged, and it requests material which are the subject of an on-going criminal case which has not yet concluded.

Your subpoena seeks a "complete...copy of the District Attorney's file." The subpoena goes on to further specify the documents you seek. But, in essence, the subpoena seeks unrestricted access to the contents of DANY's criminal file.

FRCivP 45(b)(1) provides in substance that a subpoena must be accompanied by the simultaneous tendering of one day's attendance and mileage fees of \$40 as set forth in U.S.C. § 1821(2)(b). See, e.g., CF & I Steel Corp. v. Mitsui & Co. (USA), Inc., 713 F.2d 494, 496 (9th Cir. 1983); see also Gonzalez v. Fenner, 128 F.R.D. 606, 607-608 (S.D.N.Y. 1989) (Sprizzo, J.) (same where non-party subpoenaed to appear at pretrial deposition). Your subpoena fails to comply with that provision.

FRCivP 45(a)(1)(D) provides in substance that a subpoena must set forth the text of subdivisions (c) and (d) of Rule 45. Your subpoena fails to comply with that provision.

The Subpoena requests material relating to an ongoing prosecution. On October 25, 2007 the defendant consented to having this case Adjourned in Contemplation of Dismissal until April 25, 2008. Should the defendant not re-offend prior to April 25, 2008, the criminal case will be dismissed. Until then, it is considered an open matter currently being prosecuted by our office. DANY respectfully asks that you withdraw this Subpoena until the case is completed.

Jan 17 2008 12:06pm
Jan 17 2008 12:23 P. 08

ROBINSON & YABLON PC
Received
Fax: 12127258567

Should you choose to continue in your endeavor to receive the above-noted items, DANY will be forced to seek leave to have the court intervene on its behalf and consider staying the civil proceeding and/or postpone civil discovery. See Fed. R. Civ. P. 24(b)(2); United States v. Kordel, 397 U.S. 1, 12 n. 27 (1970); Rosenthal v. Giuliani, 2001 U.S. dist. LEXIS 1207 (S.D.N.Y. Feb. 2, 2002)(Peck, M.J.).

Were this case not pending, your Subpoena requests many documents which were generated or obtained by the New York City Police Department (NYPD). DANY objects to the disclosure of these documents. You have not alleged that you have made any attempts to obtain these documents from NYPD and have failed to obtain them. You should attempt to do so prior to subpoenaing such documents from non-party DANY's files. NYPD is in the best position to assert any relevant privileges or other legal restrictions to the disclosure of its records. See Thomas v. City of Mount Vernon, 1990 U.S. Dist. LEXIS 3036 (S.D.N.Y. 1990) (motion to compel non-party District Attorney's Office to comply with subpoena requesting police documents denied where Plaintiff did not explain why information sought could not be obtained directly from police department); see also Cruz v. Kennedy, 1998 U.S. Dist. LEXIS 15599 (S.D.N.Y. 1998).

The file contains copies of the following documents created by or obtained from NYPD:

1. Medical Treatment of Prisoner Form
2. Prisoner Movement Slip
3. Memobook, P.O. Moscoso, 4 pages
4. Memobook, P.O. Rhone, 2 pages
5. Color copies of photos of defendant printed on 8 1/2 x 11 paper, 18 pages
6. On-line Booking Sheet (typed), 2 pages
7. Complaint Report (typed), 2 pages
8. Desk Appearance Ticket
9. Desk Appearance Ticket Investigation, 2 pages
10. DAT Report, 8 pages
11. Arrest Report
12. IAB Callout Report, 2 pages
13. IAB Investigating Officer's Report (IAB IOR), Response to St. Vincent's Hospital, 5/4/2007, 2 pages
14. IAB IOR, Interview of Gregory Kleine, 5/4/2007, 2 pages
15. IAB IOR, 5/15/2007, Metro card History Check
16. IAB IOR, 5/4/2007, Photo Array, 2 pages
17. IAB IOR, 5/4/2007, Arrest Documents
18. IAB IOR, 5/4/2007, Medical Records Request Form
19. IAB IOR, 5/4/2007, Surveillance Video Investigation
20. IAB IOR, 5/4/2007, Background Check, PO Rhone, 2 pages
21. IAB IOR, 5/4/2007, Background Check, PO Moscoso, 2 pages
22. IAB IOR, 5/4/2007, Metro card History Check
23. IAB IOR, 5/4/2007, Defendant background check
24. IAB IOR, 5/4/2007, Request for 911 and Radio Transmissions

P.09

Jan 17 2008 12:06pm
Jan 17 2008 12:23

Fax:12127258567

Received:
ROBINSON & YABLON PC

25. IAB IOR, 5/4/2007, Request for Command Center tape
26. IAB IOR, 5/4/2007, Notifications to superiors
27. IAB IOR 5/7/2007, follow up on request for Surveillance
28. IAB IOR, 5/11/2007, No video available
29. IAB IOR, 5/17/2007, Received Command Center Disc
30. IAB IOR, 6/8/2007, Attempt to Obtain Medical Records
31. IAB IOR, 6/13/2007, Request for Canvass
32. IAB IOR, 6/13/2007, Defendant background check
33. IAB IOR, 6/13/2007, PO background checks
34. Photo Array, 4 pages
35. Prisoner Holding Pen Roster
36. Discharge Instructions, St. Vincent's Hospital
37. Complaint Report (typed), 2 pages
38. OLBS (typed), 3 pages
39. Prisoner Pedigree Card
40. Command Log, 2 pages
41. Desk Appearance Ticket
42. Roll Call Adjustment
43. Roll Call, 5 pages
44. Officer History, PO Rhome, 20 pages
45. Officer History, PO Moscoso, 18 pages
46. BADS printout, 3 pages
47. Request for 911 Sprint Records, 2 pages
48. Request for Command Center Disc, 2 pages
49. Medical Information and HIPAA release authorization by defendant, 2 pages
50. Metro card check, 3 pages
51. 49, Injured Prisoner in the Confiner of TD-02, 2 pages
52. 49, Transmittal OG Case
53. E-Justice background check on defendant, 5 pages
54. Request for Canvass, 2 pages

Were this case not pending, DANY would object to the disclosure of a two page print out of Gregory Klein's criminal history obtained from the State of New York Division of Criminal Justice Services ("DCJS") in response to a request DANY made to that agency. DCJS provided this criminal history to DANY on a confidential basis and solely for the purpose of the investigation of the criminal case. See 9 NYCRR § 6150.4.

DCJS is in the best position to assert relevant privileges and other legal restrictions to the disclosure of this information. You should make his request for this information directly to DCJS. You do not allege that you have attempted to obtain this information from DCJS and failed. See Thomas v. City of Mount Vernon, supra; see also Cruz v. Kennedy, supra.

Were this case not pending, DANY would object to the disclosure of the below detailed documents on the ground that they are protected by the work product, and law enforcement or official information privileges. The work product privilege protects interview summaries generated by attorneys during a criminal investigation. Such documents are privileged absent a

P.10

Jan 17 2008 12:06pm
Jan 17 2008 12:23

FAX:1212258567

ROBINSON & YABLON PC
Received:

showing of substantial need. Fed.R.Civ.P. 26(b)(3); see United States v. Nobles, 422 U.S. 225, 238 (1975); see also Hickman v. Taylor, 329 U.S. 495, 512 (1947); Coleco Indus. Inc. v. Universal City Studios, 110 F.R.D. 688, 690 (S.D.N.Y. 1986)(Sweet, J.); New Gold Equities Corp., et al., No. 89 Civ. 5472, 1990 Dist. LEXIS 15173 (S.D.N.Y. Nov. 13, 1990)(Dolinger, M.J.)(applying work product privilege to non-party). The privilege applies to documents which reflect an attorney's mental impressions, conclusions, opinions or legal theories and which "assemble[s] information, sift[s] what [the attorney] considers to be the relevant from the irrelevant facts, [and assists] to prepare his legal theories." Hickman v. Taylor, *supra* at 511. The law enforcement or official information privilege protects the government's interest in ensuring the secrecy of law enforcement documents. See G-69 v. Degnan, 130 F.R.D. 326, 332 (D.N.J. 1990); see also Thompson v. Lynbrook Police Dept., 172 F.R.D. 23, 26 (E.D.N.Y. 1997).

DANY's file contains the following documents that are privileged and not subject to disclosure:

1. Notes to assigned prosecutor from calendar part prosecutors in case of People v. Gregory Kleine
2. Correspondence by the assigned prosecutor or to the assigned prosecutor related to the prosecution of Gregory Kleine
3. Handwritten interview notes of witnesses by the assigned prosecutor
4. Criminal Court Supervisor Evaluation Sheet
5. D.A. Datasheet, page 1 only

Were this case not pending, DANY would have no objection to providing the following documents to you. They would be provided at a photocopying cost of twenty-five cents (\$0.25) per page:

1. Criminal Court Complaint
2. Criminal Court back, 1 page

DANY reserves the right to raise detailed objections at a later time after the court issues a ruling on the objections DANY is making at this time. Thus, DANY's decision not to raise them in this letter should not be construed as a waiver of that right.

Should you believe that court action is necessary with regard to this matter pursuant to Rule 45(c)(2)(b) of the Federal Rules of Civil Procedure, please afford my Office reasonable notice so that our position may be made known to the Court. I am, of course, available to discuss this matter with you prior to any court intervention.

p. 11

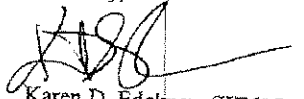
Jan 17 2008 12:06pm
Jan 17 2008 12:24

Fax: 12127256567

Received:
ROBINSON & YABLON PC
Jan 17 2008 12:06pm

Since I am the attorney representing the District Attorney's Office, please do not attempt to directly contact the Assistant District Attorney or any other employees of this Office who may have been involved in the underlying criminal matter. If you have any questions about my response to your subpoena, please contact me directly.

Sincerely,


Karen D. Edelman (KE6171)
Assistant District Attorney
(212) 335-4335

cc: Assistant Corporation Counsel Sabrina Tann

P.12

Jan 17 2008 12:06pm
Jan 17 2008 12:24

ROBINSON & YABLON PC
Received:
Fax: 12127258567



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
FACSIMILE TRANSMISSION

FROM

TO: Andrew Laskin, Esq.
Robinson & Yablon
232 Madison Ave., Ste. 1200
NY, NY 10016

FROM:

Sabrina Tann
Phone: 212-442-8600
Fax: 212-788-9776
E-mail: stann@law.nyc.gov

FAX #: 212-725-8567

DATE: January 17, 2008

9
You should receive page(s), including this one.
Please contact me if you do not receive all pages.

This facsimile contains CONFIDENTIAL INFORMATION which may also be LEGALLY PRIVILEGED. It is intended only for use of the addressee(s) named above. If you are neither the intended recipient of this facsimile nor the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that disseminating or copying this facsimile is prohibited. If you have received this facsimile in error, please notify this office by telephone and return the original to the address set forth by the United States Postal Service. Thank you.

Message: Re: Gregory Klein v. City of New York et al., 07 CV 5887 (PKC)

This communication contains information that is privileged, attorney work product, exempt or prohibited from disclosure under applicable law. If you have received this facsimile in error, please notify this office by telephone and return the original to the address set forth by the United States Postal Service. Thank you.

Jan 17 2008 12:05pm
Jan 17 2008 12:22
Jan 17 2008 12:24
P.01

Received: ROBINSON & YABLON PC
Fax: 12127258567

NEW YORK CITY POLICE DEPT ARREST REPORT RUN DATE 07/30/07 RUN TIME 13:13:44
 THIS IS AN UPDATED ARREST
 DEFENDANT INFORMATION ARREST ID: M07639212
 NAME: GREGORY LAST NAME: WILSON DOB: 09/14/66 AGE: 40
 AKA: CITY: 992 PDB: DCA PHONE: ()
 ADDR: 101 WEST END AVENUE MANHATTAN NY 10023 RES FCT: UNK IN NYC
 SKIN TONE: LIGHT HT: 5-10 WT: 165 EYE COLOR: HAZEL HAIR COLOR: BLOND
 SOC STATUS: SOC SEC #: DEFT/VICT RELAT: 999999999
 PHYSICAL COND: INJ-TREATED RELEASED TYPE DRUG USLD: NONE
 OCCUPATIONAL AREA: OTHER
 LICENSE/PERMIT TYPE (LIC DRIVER/OPR/REG): NO:
 CAUSE NO: NAME: REFUGO NO: () NAME:
 ORACLE# 00000000 NYSID# 25775680 FAX# M004490 ARR.PROC: D A T

NARRATIVE: AT T/P/O DEFT. WAS OBSERVED ACTING IN A VIOLENT MANNER. WHEN PO ATTEMPTED TO PUT DEFT IN CUSTODY DEFT FIARED HIS ARMS AND REFUSED TO BE ARRESTED. CMC

CHARGES INFORMATION

ATT	LAW	SEC	SUB	CLS	TYPE	CTS	DESCRIPTION	
TOP CHARGE:	N	PL	205.30	00	M	A	01	RESIST ARREST
TOTAL CHARGES:	N	PL	240.20	01	V	0	01	DISORD CONDUCT
COUNT = 02								

ARREST RELATED INFORMATION

DATE? YES RETURN DATE: 06/04/07
 DATE# 00000000 A/D EXC? 999
 TLR 02 20 DATE 05/04/07 CMD 000
 WEAPON POSS/USED: ARREST LOC: SUBWAY MANHATTAN
 ARI UP AS000:00
 PROPERTY VOUCHERS:

NO:	CMD:	VAL:	TYP:
1 NO:	CMD:	VAL:	TYP:
2 NO:	CMD:	VAL:	TYP:
3 NO:	CMD:	VAL:	TYP:

COMPLAINANT/UF-61/VICTIM INFORMATION

IS COMPL A CERT? NO OR PSNY? YES OR DISABLED? NO TOTAL VICTIMS = 00
 COMPL NAME:

ADDR: TFL NUM: ()
 PIRED NO: AIDED CMD: ACC NO: ACC CMD:
 UF 61 NO: 003978 CMD: 013 SECTOR: G JURISDICTION: N.Y. TRANSIT POLICE
 TIME & DATE OF OCCURRENCE: 02:10 ON 04/04/07 METHOD
 PREMISES: LOCATION: MANHATT



ARRESTING OFFICER INFORMATION

NAME: LEONARDO RANK: PUM TAX NUMBER: 00000000
 DEPT: 160 CHART: FIRST PLIN CT SQUAD: A1 ASSGN:

OFFICER: INJURED? NO ASSIGNED? YES ON DUTY? YES IN UNIFORM? NO
 USED FORCE? YES TYPE: 99999999 REASON: 99999999

STATE OF NEW YORK
 COUNTY OF NEW YORK

THIS IS TO CERTIFY THAT THIS IS A TRUE COPY OF AN
 ORIGINAL RECORD IN THE CUSTODY OF THE IDENTIFICATION
 SECTION OF THE POLICE DEPARTMENT OF
 THE CITY OF NEW YORK
 DATE 7-30-07

	New York City Police Department Omniform System - Arrests	
---	--	---

CORD STATUS: NYSID ENTERD

Arrest ID: M07639919
Yest Location: SUBWAY MANHATTAN IRT, 7 AVENUE TO WEST 14
REET

Pct: 006

est Date: 05-04-2007 Processing Type: D A T

Time: 02:20:00

DCJS Fax Number: MP004490

Sector: G

Special Event Code: -

DAT Number: 0

Stop And Frisk: NO

Return Date: 0000-00-00

Serial #: 0000-000-00000

MPLAINTS:

Arrest #: M07639919

PLAINT NUMBER REPORT DATE RECORD STATUS OCCUR DATE OCCUR TIME

-913-03978 2007-04-04 Valid, Initial Arrests made 2007-04-04 02:10

RGES:

Arrest #: M07639919

ROE ATTEMPT? LAW CODE CLASS TYPE COUNTS DESCRIPTION

No	PL 205.30	M	A	1	RESISTING ARREST
No	PL 240.20 01 V		0	1	DIS/CON:FIGHT/VIOLENT BEHAVIOR

Arrest from:

Injured:
00# Fatalities:
00

Test Given:

B.A.C:

Reason Not Forfeited:

AILS:

Arrest #: M07639919

P/O DEFT. WAS OBSERVED ACTING IN A VIOLENT MANNER. WHEN PO ATTEMPTED TO P
 EFT IN CUSTODY DEFT FLARED HIS ARMS AND REFUSED TO BE ARRESTED. CN# 83107

FENDANT: KLEINE, GREGORY

NYSID #: 2577568Q

Arrest #: M07639919

AKA/Maiden:

Sex: MALE

Race: WHITE

Age: 40

Date Of Birth: 08/14/1966

U.S. Citizen: YES

Place Of Birth: USA

Interpreter: NO

Language:

Accent: NO

Height: 5FT 10IN

Weight: 165

Eye Color: HAZEL

Hair Color: BLONDE

Hair Length: NORMAL

Hair Style: CREW

Skin Tone: LIGHT

Complexion: CLEAR

Soc. Security #:

Occupation: OTHER

cal Condition: INJ-TREATED RELEASED Lic/Permit Type:

Drug Used: NONE

Lic/Permit No:

Order Of Protection: NO

Issuing Court:

Docket #:

Expiration Date:

Relation to Victim: STRANGER

Living together: NO

Can be identified: YES

Gang Affiliation: NO

Name:

Identifiers:

LOCATION	ADDRESS	CITY	STATE/CNTRY	ZIP	APT/ROOM	PCT
E-PERMANENT	101 WESTEND AVENUE	MANHATTAN	NEW YORK	10023	29C	000

and E-Mail Address:

H.A. Resident: NO N.Y.C. Housing Employee: NO On Duty:
Development: N.Y.C. Transit Employee: NO

Physical Force: NONE	Gun:	Used Transit System: NO
Weapon Used/Possed: NONE	Make:	Station Entered:
Non-Firearm Weapon:	Color:	Time Entered:
Weapon Description:	Caliber:	Metro Card Type:
	Type:	Metro Card Used/Poses:
	Discharged: NO	Card #:

E DATA DETAILS
IS OPERANDI UNKNOWN
INS TOWARD VICTIM UNK
HING FOOTWEAR - DRESS SHOES - UNKNOWN COLOR
HING ACCESSORIES - WELL DRESSED - BLACK
HING HEADGEAR - UNK - UNKNOWN COLOR
HING OUTERWEAR - UNK - UNKNOWN COLOR
ACTERISTICS UNKNOWN
MARKS -UNKNOWN
MARKS -UNKNOWN
ISONATION UNKNOWN

FILE DATA:

Arrest #: M07639919

Juvenile Offender: Relative Notified: Personal Recog:
Number Of Priors: 0 Name:
School Attending: Phone Called:
Maiden Name: Time Notified:

RELATED ARRESTS:

Arrest #: M07639919

IT ID COMPLAINT #

NDANTS CALLS:

Arrest #: M07639919

NUMBER DIALED NAME CALLED DATE TIME
REFUSED 05/04/2007 02:20

CES:

Arrest #: M07639919

E# COMMAND PROPERTY TYPE VALUE

ESTING OFFICER: POM LEONARDO MOSCOSO

Arrest #: M07639919

Tax Number: On Duty: YES
(non-NYPD): In Uniform: NO
Shield: 3617 Squad: A1
Department: TAPD Chart: 02
Command: TD DT02 Primary Assignment:

Force Used: YES
Type: PHYSICAL FORCE
Reason: PREVENT ESCAPE
Officer Injured: NO

Officer Name: MOSCOSO, LEONARDO	Tax #:	Command: TD DT02	Agency: TAPD
Officer Approving: MOSCIATO	Tax #:	Command: 861	Agency: NYPD
Officer Entered by: MOSCOSO	Tax #:	Command: 861	Agency: NYPD

END OF ARREST REPORT



M07639919

Page 5 of 5



Print this Report


ON LINE BOOKING SYSTEM ARREST WORKSHEET
 PD 244-159 (Rev. 5-01)-Pent-RMU

Arrest No.	Arrest Pct.	Sector	DAT <input type="checkbox"/> Yes <input type="checkbox"/> No	Return Date	Officer Excused <input type="checkbox"/> Yes <input type="checkbox"/> No	Special Event Code
------------	-------------	--------	---	-------------	---	--------------------

COMPLETE THIS SECTION ONLY FOR AN ARREST WHEN A COMPLAINT REPORT WAS PREVIOUSLY PREPARED

Original Complaint Pct.	Date	Offense	Complainant's Name (Last Name, First, M.I.)
-------------------------	------	---------	---

REQUIRED ONLY FOR AN OCCB ARREST AND AN ARREST NOT REQUIRING A COMPLAINT REPORT

LOCATION OF OFFENSE	Time	Date	Address/Location Of Offense: <input type="checkbox"/> Inside <input type="checkbox"/> In Front Of <input type="checkbox"/> Rear Of <input type="checkbox"/> Opposite Of	Apt/Room #
	Cross Streets		Intersection Of	Corner <input type="checkbox"/> N/E <input type="checkbox"/> N/W <input type="checkbox"/> S/E <input type="checkbox"/> S/W
	Jurisdiction (check one)	<input type="checkbox"/> NYPD <input checked="" type="checkbox"/> NYPD Transit Bureau <input type="checkbox"/> NYPD Housing Bureau <input type="checkbox"/> Other		
	Premises Type:	<input type="checkbox"/> Residential <input type="checkbox"/> House of Worship <input type="checkbox"/> School: <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/> Public Transportation <input type="checkbox"/> Commercial <input type="checkbox"/> Other		
LOCATION OF SCHOOL	On NYC Bd. of Ed.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of School: <input type="checkbox"/> Elem. <input type="checkbox"/> IS <input type="checkbox"/> JHS <input type="checkbox"/> HS <input type="checkbox"/> Sp. Ed.	School No. School Name
	School Property	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	NYC Transit Station	Line #	Location In Transit System	NYCHA Development Name

THE FOLLOWING INFORMATION MUST BE COMPLETED FOR ALL ARRESTS

ARRESTING OFFICER	Department	Command	Tax Registry No.	Identification No. (If Not NYPD)	Shield No.
	Rank	Last Name	First	M.I.	
	On Duty <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	In Uniform <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Squad	Chart	Primary Assignment: <input type="checkbox"/> Beat Officer <input type="checkbox"/> Other Uniform <input checked="" type="checkbox"/> Anti-Crime <input type="checkbox"/> Investigatory <input type="checkbox"/> Other
	Force Used <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type: <input type="checkbox"/> Handgun <input type="checkbox"/> Chemical Agent <input type="checkbox"/> Physical Force <input type="checkbox"/> Baton	<input type="checkbox"/> Rifle/Shotgun <input type="checkbox"/> Other	Reason For Force: <input type="checkbox"/> Overcome Assault <input type="checkbox"/> Prevent Escape <input type="checkbox"/> Restrain <input type="checkbox"/> Other	Arresting Officer Injured <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

ARREST INFORMATION	Time	Date	Address/Location Of Arrest: <input type="checkbox"/> Inside <input type="checkbox"/> In Front Of <input type="checkbox"/> Rear Of <input type="checkbox"/> Opposite Of	Apt/Room #
	Cross Streets		Intersection Of	Corner <input type="checkbox"/> N/E <input type="checkbox"/> N/W <input type="checkbox"/> S/E <input type="checkbox"/> S/W
	Arrest Numbers Of Associates	Is This Arrest Related To Stop And Frisk Report		
	Invoice #	Command	Type:	<input type="checkbox"/> Drugs <input type="checkbox"/> Veh. <input type="checkbox"/> Curr. <input type="checkbox"/> Gun <input type="checkbox"/> Jewelry <input type="checkbox"/> Boat <input type="checkbox"/> Other

DEFENDANT INFORMATION	Last Name	First	M.I.	Date Of Birth	Age
	Occupation:	License/Permit Type (Excluding Drivers Lic.)			License/Permit #
	Telephone Calls:	1. () - Name 2. () - Name 3. () - Name			
	Physical Condition:	<input checked="" type="checkbox"/> Apparently Normal <input type="checkbox"/> Injury-To Hospital <input type="checkbox"/> Intox-Drugs <input type="checkbox"/> Sick-To Hospital <input type="checkbox"/> Unknown <input type="checkbox"/> Deceased <input type="checkbox"/> Injury-RMA <input type="checkbox"/> Intox-Unknown <input type="checkbox"/> Sick-RMA <input type="checkbox"/> EDP-To Hospital <input type="checkbox"/> Injury-Treated & Released <input type="checkbox"/> Pregnant-Normal <input type="checkbox"/> Sick-Treated & Released <input type="checkbox"/> EDP-Released From Hospital <input type="checkbox"/> Intox-Alcohol <input type="checkbox"/> Pregnant-Requires Medical Aid <input type="checkbox"/> Unconscious			

ADVERSE	Juv. Offender	Number of Priors	School Attending	Mother's Maiden Name
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	Relative	<input type="checkbox"/> Parent <input type="checkbox"/> Guardian	Name (Print)	Time Notified
	Notified:	<input type="checkbox"/> Other Relative		Personal <input type="checkbox"/> Yes Recog: <input type="checkbox"/> No

CHARGES	ATTEMPT?	LAW	SECTION	SUB.	CLASS	TYPE	COUNTS	DESCRIPTION	
	Top Chg.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	PL	240.20	01	U	U	1	Discon
	2nd Chg.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	PL	205.30		A	M	1	Resisting Arrest
	3rd Chg.	<input type="checkbox"/> Yes <input type="checkbox"/> No							
	4th Chg.	<input type="checkbox"/> Yes <input type="checkbox"/> No							
	5th Chg.	<input type="checkbox"/> Yes <input type="checkbox"/> No							

NARRATIVE	If Drug Possession/Sale Is Top Charge:	<input type="checkbox"/> Crack <input type="checkbox"/> Other Cocaine <input type="checkbox"/> Opium Deriv. <input type="checkbox"/> Synthetic <input type="checkbox"/> Other Drug
	At 11/6 Def. was observed acting in a violent manner. When PO attempted to put Def. in custody Def. threatened arms & refused to be arrested.	

Rank/Title	Arresting Off. / <input type="checkbox"/> Assigned Off. Name (Print)	Signature	Tax Registry No.	Command	Agency
Rank/Title	Supervisor Approving Name (Print)	Signature	Tax Registry No.	Command	Agency

COMPLAINT INFORMATION		Date	Offense	Victim's Name	Location Of Occ.
Perp	Compl. #				
Order Of Protection In Effect	Issuing Court	Docket #	Exp. Date Of Order Of Protection		
Precinct Of Arrest	Arrest #	Last Name	First	M.I.	
Nickname/Alas/Maiden Name	Sex	Date Of Birth	Age	Height	Weight
	Male	8/14/66	5' 10"	165	
Eye Color	Hair Color	Hair Length	U.S. Citizen	State/Country Of Birth	
BR	BR	Medium	Yes	NY	
Address (NYC, NYS, Other, Homeless)		Appt / Room	City	State/Country	Zip
161 West 10th Avenue		87C	NY	NY	10023
Business Address		Business #			
Home Phone #		Business #			
E-Mail Address		Cell Phone #			
Is Interpreter Needed For Further Investigation?		If Yes, Indicate Language		Victim and Perp. Living Together	
Yes No		Yes No		Yes No	
Victim States Perp. is:		Relationship		Employment	
Husband, Wife, Divorced, Grandfather, Brother, Sister, Grandmother, Other		Grandchild, In-Law, Same Sex Partner, Other Relative		Employer, Co-Worker, Girlfriend, Friend/Acquaintance, Stranger	
Social Security #		N.Y.C.H.A. Resident		N.Y.C.H.A. Employee	
		Yes No		Yes No	
Physical Force:		Weapon:		Gun Discharged	
Used, Possessed, Threatened, None		Gun, Handgun, Rifle, Shotgun, Toy Gun, Shot Gun, Machine Gun		Yes No	
		Make, Color, Calibre, Type			
		Cutting Instrument, Blunt Instrument, Poison/Chemical Agents, Bomb/Incendiary, Other Weapon (Describe)			
Gang Affiliation:		If Yes, Indicate Name Of Gang		Gang Identifiers (Colors, Beards, Tattoos, Etc.)	
Yes No					
Used Subway System:		If Yes, Station Entered And Time		Metro Card: Used, Possessed Only	
Yes No				Type: Student, Senior Citizen, Transit Employee, Police	
Statement Made By Perpetrator During Commission Of Offense		Method Of Flight			
M.O. (Check All That Apply) <input type="checkbox"/> Asked Questions/Offered Assistance <input type="checkbox"/> Bag Opener <input type="checkbox"/> Bicycle Used <input type="checkbox"/> Car Jack <input type="checkbox"/> Con Game <input type="checkbox"/> Deception Used <input type="checkbox"/> Entry Through Window/Fine Escape <input type="checkbox"/> Followed Victim Along Street <input type="checkbox"/> Followed Victim To/From ATM/Bank <input type="checkbox"/> Hijack <input type="checkbox"/> Jewelry/Neck Chain Snatch <input type="checkbox"/> Jumped From Vehicle <input type="checkbox"/> Motorcycle Used <input type="checkbox"/> Note Was Passed <input type="checkbox"/> Opened Safe <input type="checkbox"/> Payroll <input type="checkbox"/> Perp Made Statement <input type="checkbox"/> Perp Offered Sex <input type="checkbox"/> Pick Pocket <input type="checkbox"/> Property Stashed From Hand <input type="checkbox"/> Push-In <input type="checkbox"/> Purse/Wallet Snatch <input type="checkbox"/> Took Victim To Isolated Area <input type="checkbox"/> Other					
Transit M.O. <input type="checkbox"/> Escaped Between Train Cars <input type="checkbox"/> Escaped By Track/Tunnel <input type="checkbox"/> Followed Victim From Street To Subway <input type="checkbox"/> Held Train Doors <input type="checkbox"/> Lush Worker <input type="checkbox"/> Reached From Moving Train <input type="checkbox"/> Removed Victim From Subway System					
Action Toward Victim: (Check All That Apply) <input type="checkbox"/> Fired Shot At <input type="checkbox"/> Injury Using Physical Force <input type="checkbox"/> Made Victim Strip <input type="checkbox"/> Pepper/Chemical Spray <input type="checkbox"/> Stabbed/Slashed/Cut <input type="checkbox"/> Struck With Object <input type="checkbox"/> Tied/Handcuffed <input type="checkbox"/> Tortured <input type="checkbox"/> Used/Threat With Flame <input type="checkbox"/> Unk/None <input type="checkbox"/> Other					
Head Gear: <input type="checkbox"/> Baseball Cap <input type="checkbox"/> Beret/Military Cap <input type="checkbox"/> Cowboy Hat <input type="checkbox"/> Mask <input type="checkbox"/> Ski Cap/Watch Cap <input type="checkbox"/> Skull Cap <input type="checkbox"/> Stocking Cap <input type="checkbox"/> Straw Hat/Fedora <input type="checkbox"/> Turban <input type="checkbox"/> Unk/None <input type="checkbox"/> Other					
Foot Wear: <input type="checkbox"/> Barefoot <input type="checkbox"/> Boots <input type="checkbox"/> Dress Shoes <input type="checkbox"/> High Heels <input type="checkbox"/> Loafers/Moccasins <input type="checkbox"/> Roller Blades <input type="checkbox"/> Sandals <input type="checkbox"/> Sneakers <input type="checkbox"/> Workboots <input type="checkbox"/> Unk <input type="checkbox"/> Other					
Outer Wear: <input type="checkbox"/> Gang, Team, School Jacket <input type="checkbox"/> Leather, Suede, Fur Trim <input type="checkbox"/> Military Clothing <input type="checkbox"/> Overcoat/Top Coat <input type="checkbox"/> Snorkel/Ski Hooded Jacket <input type="checkbox"/> Sport/Dress Jacket <input type="checkbox"/> Sweater/Vest <input type="checkbox"/> Sweat Shirt/Jogging Jacket <input type="checkbox"/> T-Shirt/Tank Top <input type="checkbox"/> Waist Length Jacket <input type="checkbox"/> Unk/None <input type="checkbox"/> Other					
Special Characteristics: (Check All That Apply) <input type="checkbox"/> Arm (Amputee) <input type="checkbox"/> Ears <input type="checkbox"/> Eyes <input type="checkbox"/> Hand/Arm <input type="checkbox"/> Leg (Amputee) <input type="checkbox"/> Lips <input type="checkbox"/> Nose <input type="checkbox"/> Sideburns <input type="checkbox"/> Tracks <input type="checkbox"/> Speech Impairment/Stutter <input type="checkbox"/> Skin Condition <input type="checkbox"/> Beard <input type="checkbox"/> Eyebrows <input type="checkbox"/> Goatee <input type="checkbox"/> Left Handed <input type="checkbox"/> Limp <input type="checkbox"/> Mustache <input type="checkbox"/> Odor <input type="checkbox"/> Teeth <input type="checkbox"/> Very Muscular <input type="checkbox"/> Eye Glasses <input type="checkbox"/> Sun Glasses <input type="checkbox"/> Unk/None <input type="checkbox"/> Other					
Hairstyle: <input type="checkbox"/> Afro <input type="checkbox"/> Bald <input type="checkbox"/> Bald (Partial) <input type="checkbox"/> Braids <input type="checkbox"/> Caesar <input type="checkbox"/> Close Cut <input type="checkbox"/> Corn Rows <input type="checkbox"/> Crew <input type="checkbox"/> Curly/Wavy <input type="checkbox"/> Dreadlocks <input type="checkbox"/> Kinky <input type="checkbox"/> Pony Tail <input type="checkbox"/> Processed <input type="checkbox"/> Shaved <input type="checkbox"/> Straight <input type="checkbox"/> Wig <input type="checkbox"/> Unk <input type="checkbox"/> Other					
Skin Tone: <input type="checkbox"/> Light <input type="checkbox"/> Medium <input type="checkbox"/> Dark <input type="checkbox"/> Unk					
Complexion: <input type="checkbox"/> Blotchy <input type="checkbox"/> Clear <input type="checkbox"/> Flushed/Ruddy <input type="checkbox"/> Pimpled <input type="checkbox"/> Tan <input type="checkbox"/> Yellow <input type="checkbox"/> Brown <input type="checkbox"/> Freckled <input type="checkbox"/> Olive <input type="checkbox"/> Pocked <input type="checkbox"/> Wrinkled <input type="checkbox"/> Unk <input type="checkbox"/> Other					
Other Clothing/Accessories: <input type="checkbox"/> Bag/Briefcase <input type="checkbox"/> Dirty/Torn/Messy <input type="checkbox"/> Gloves <input type="checkbox"/> Jeans <input type="checkbox"/> Jewelry <input type="checkbox"/> Radio Used <input type="checkbox"/> Scarf/Bandana/Sweatband <input type="checkbox"/> Shorts <input type="checkbox"/> Skirt/Dress <input type="checkbox"/> Stacks <input type="checkbox"/> Sweat/Jogging Clothes <input type="checkbox"/> Tools/Keys <input type="checkbox"/> Uniform <input type="checkbox"/> Well Dressed <input type="checkbox"/> Work Clothes <input type="checkbox"/> Unk/None <input type="checkbox"/> Other					
Distinguished Body Marks: <input type="checkbox"/> #1 Birthmark <input type="checkbox"/> #2 Body Piercing <input type="checkbox"/> Scar <input type="checkbox"/> Tattoo (Can't Describe) <input type="checkbox"/> Tattoo Picture <input type="checkbox"/> Tattoo Word <input type="checkbox"/> Tattoo Word & Picture <input type="checkbox"/> Unk/None <input type="checkbox"/> Other					
Body Mark Location: <input type="checkbox"/> #1 Arm <input type="checkbox"/> #2 Face/Head <input type="checkbox"/> Hand <input type="checkbox"/> Leg <input type="checkbox"/> Neck <input type="checkbox"/> Torso					
Describe Tattoo: Words: #1 _____ #2 _____ Picture: #1 _____ #2 _____					
Impersonation Of: <input type="checkbox"/> Customer/Client <input type="checkbox"/> Employee <input type="checkbox"/> Female <input type="checkbox"/> Law Enforcement Officer <input type="checkbox"/> Male <input type="checkbox"/> Security Officer <input type="checkbox"/> Public Servant <input type="checkbox"/> Utility Worker <input type="checkbox"/> Unk/None <input type="checkbox"/> Other					

CRIME INCIDENT DATA (MUST BE COMPLETED FOR ALL ARREST CASES)
INCLUDE ANY ADDITIONAL DATA IN THE "NARRATIVE" SECTION

120 Livingston Street
Brooklyn, NY 11201

Lawrence G. Roulon
President



New York City Transit

Date: 7/27/2007

To: Kyisha Brooks, Paralegal

From: Helen Smart, Director Subpoena Unit

Subject: Gregory kleine vs. City of New York
Case number: 07 CV 5887

This is to inform you that there are no available video of the 2/3 train station on May 4, 2007 at 1:30A - 4:00P. This is due to the time constraints of the recording system.

Very Truly Yours

A handwritten signature in black ink, appearing to read "Helen Smart".

Helen Smart
Director, Subpoena Unit

FRIDAY, MAY 4, 2007

457

REDACTED

NOTIFICATION PO RHOME AT ST. VINCENT HOSP WITH INJURED PRISONER
M/W/30 GREGORY KLEINE. PO MOSCOSO AT DL PROSECUTING
ARREST. TBM, DUTY CAPT AND IAB NOTIFIED CN#83107

FRIDAY MAY 4, 2007

REDACTED

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